

# EXHIBIT I

C O N F I D E N T I A L

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In Re PETROBRAS SECURITIES LITIGATION      Case No.  
14 cv 9662  
This Document Applies to: All Cases

March 9, 2016  
9:57 a.m.

Continued videotaped deposition of VENINA  
VELOSA da FONSECA, taken by Plaintiffs, pursuant  
to Adjournment, held at the offices of Pomerantz  
LLP, 600 Third Avenue, New York, New York, before  
Joseph R. Danyo, a Shorthand Reporter and Notary  
Public within and for the State of New York.

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sA P P E A R A N C E S :

POMERANTZ LLP  
Attorneys for Lead Plaintiff  
600 Third Avenue  
New York, New York 10016

By: JOHN A. KEHOE, ESQ.  
EMMA GILMORE, ESQ.  
MARCELA LEVI, ESQ.  
ATILA CONDINI, ESQ.  
HUI CHANG, ESQ.

KAPLAN FOX & KILSHEIMER LLP  
Attorneys for Plaintiff Ohio Public  
Employees Retirement System  
805 Third Avenue  
New York, New York 10022

By: MATT McCAHILL, ESQ.  
(Via Teleconference)

KESSLER TOPAZ MELTZER CHECK LLP  
Attorneys for Plaintiffs Dimensional,  
Aberdeen, Abbey Funds, Skagen, Danske,  
Delaware and Russell Plaintiffs  
280 King of Prussia Road  
Radnor, Pennsylvania 19087

By: MARGARET E. ONASCH, ESQ.

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP  
Attorneys for Plaintiffs in Janus and  
Dodge and Cox action  
250 Hudson Street  
8th Floor  
New York, New York 10013

By: DOUGLAS L. CUTHBERTSON, ESQ.

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A P P E A R A N C E S : (Continued)

CLEARY GOTTLIEB STEEN & HAMILTON LLP  
Attorneys for the Petrobras Defendants  
One Liberty Plaza  
New York, New York 10006-1470

By: ROGER A. COOPER, ESQ.  
KATHERINE CURRIE, ESQ.  
PEDRO MARTINI, ESQ.

SKADDEN ARPS SLATE MEAGHER & FLOM LLP  
Attorneys for the Underwriter Defendants  
1440 New York Avenue, N.W.  
Washington, D.C. 20005

By: JENNIFER L. SPAZIANO, ESQ.

KING & SPALDING LLP  
Attorneys for Defendant PWC  
1185 Avenue of the Americas  
New York, New York 10036-4003

By: ISRAEL DAHAN, ESQ.  
LAUREN WEBB MITCHELL, ESQ.  
(Via Teleconference, Afternoon Session  
Only)

MATTOS MURIEL KESTENER  
Attorneys for the Witness  
Alameda Santos  
1940-1 Andar  
01418-200-Sao Paulo, Brazil

By: UBIRATAN MATTOS, ESQ.

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A P P E A R A N C E S : (Continued)

Also Present:

MIKAEL PAJARI,  
PEDRO BARROSO,  
Petrobras

ZILDA BUZACK,  
Portuguese Interpreter

NICHOLAS GUZMAN,  
Videographer

~oOo~

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2                   THE VIDEOGRAPHER: Good morning. This  
3                   is the continuation of the videotaped  
4                   deposition of Venina Velosa da Fonseca on  
5                   March 9, 2016. The time is 9:57 a.m. and we  
6                   are back on the record.

7    Z I L D A    B U Z A C K, was duly sworn to  
8    interpret the questions from English to Portuguese  
9    and the answers from Portuguese to English:  
10   VENINA VELOSA da FONSECA, having been previously  
11   duly sworn, was examined and testified further as  
12   follows:

13                  THE INTERPRETER: The interpreter is  
14                  only interpreting the answers and not the  
15                  questions unless she is requested to do so.  
16                  Correct?

17                  MS. GILMORE: We are fine with that.

18                  MR. COOPER: We are fine with that. It  
19                  is up to the witness.

20                  THE WITNESS: I would like you to  
21                  translate the questions.

22                  THE INTERPRETER: Okay. The interpreter  
23                  will translate the questions and the  
24                  answers.

25   EXAMINATION BY MR. COOPER:

1 da Fonseca - Confidential

2 Q. Good morning, Ms. da Fonseca. My name  
3 is Roger Cooper and I am counsel for Petrobras in  
4 this litigation. I am going to ask you some  
5 questions today. Do you understand that this  
6 deposition today is a continuation of the  
7 deposition, your deposition, that began on  
8 February 16?

9 A. Yes.

10 Q. And you understand that you are under  
11 oath to tell the truth today?

12 A. I do understand.

13 Q. So I am going to ask you some questions.  
14 If you do not understand the question that I ask  
15 you, I request that you ask me for clarification.  
16 Is that fair?

17 A. Yes.

18 Q. And if you do not ask for clarification  
19 of a question, I am going to assume that you  
20 understood the question. Is that okay?

21 A. Okay.

22 Q. Is there any reason that you cannot  
23 testify truthfully here today?

24 A. No.

25 Q. Did you do anything since February 16 to

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2 prepare for your deposition today?

3 A. No.

4 Q. Did you speak with anyone about the  
5 testimony that you gave on February 16?

6 A. Not the content, only what happened.  
7 That is all I spoke about.

8 Q. And with whom did you speak about  
9 regarding what happened at the deposition?

10 A. Family members and managers.

11 MS. LEVI: Objection. She said not what  
12 happened, that it happened.

13 THE INTERPRETER: The interpreter did  
14 not hear that. The interpreter will ask the  
15 witness to speak up.

16 Q. Did you have any discussions with any of  
17 the lawyers for the plaintiffs in this action  
18 regarding the testimony that you gave on  
19 February 16?

20 A. No.

21 Q. Let's go back to the testimony that you  
22 did give on February 16. At any point prior to the  
23 day of that deposition did you speak with any of  
24 the lawyers representing the plaintiffs in the U.S.  
25 litigation about your testimony?



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2 A. No. I was just called by Petrobras'  
3 attorneys to speak about the content of the  
4 testimony that was provided.

5 MR. MARTINI: Could the translator or  
6 the witness clarify if it was the content of  
7 the testimony or the content of the  
8 litigation in the action.

9 THE WITNESS: Both.

10 Q. Right. But my question though was,  
11 setting that aside, did you have any communications  
12 with any lawyers for the plaintiffs prior to your  
13 deposition on February 16?

14 MS. GILMORE: Objection. Asked and  
15 answered.

16 A. I already answered this question.

17 Q. And your answer is no?

18 A. For the accusing, for --

19 MS. LEVI: Plaintiffs.

20 A. For the plaintiffs' lawyers, no. For  
21 Petrobras' attorneys, yes.

22 Q. Setting aside lawyers, did you speak  
23 with anyone else here, including meetings or phone  
24 calls, who had an affiliation or a relationship  
25 with the plaintiffs in this litigation prior to

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2     February 16?

3                   MS. GILMORE:   Objection to form.

4                 A.     Could you rephrase the question.

5                 Q.     Right.   I think you answered previously  
6     whether, a question whether you spoke to any  
7     lawyers representing the plaintiffs prior to your  
8     testimony on February 16, and I am asking you  
9     whether you spoke to anyone, any non-lawyer  
10    affiliated with the plaintiffs in connection with  
11    your deposition on February 16?

12                MS. GILMORE:   Objection to form.

13                A.     No, not that I know of.

14                Q.     And one more question to make sure I  
15    haven't missed anything.   Apart from the one  
16    communication that you mentioned, did you speak  
17    with anyone else regarding your deposition that  
18    happened on February 16 prior to the date of the  
19    deposition?

20                A.     Besides the individuals that I mentioned  
21    on my previous answer, which was family members and  
22    managers, no.

23                Q.     Did you provide anyone with any  
24    documents related to this litigation prior to your  
25    deposition on February 16?

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2 A. Yes.

3 Q. Who did you provide them to?

4 A. To the attorney, to the prosecutors,  
5 individuals were called to provide testimony who  
6 were directly connected to the case. This is after  
7 I found out that I was going to provide testimony.

8 Q. Do you mean after you found out that you  
9 were going to provide testimony in the U.S.  
10 litigation?

11 A. Yes.

12 Q. How did it come about that you provided  
13 documents -- strike that. When you said the  
14 prosecutors, do you mean Brazilian prosecutors or  
15 prosecutors somewhere else?

16 A. Brazilian.

17 Q. How did it come about that you provided  
18 documents to the prosecutors related to this  
19 litigation after you learned that you were going to  
20 be deposed in this case?

21 MS. GILMORE: Objection to form.

22 A. I said that I provided documents before  
23 I found out about this litigation, but this month I  
24 was called to provide testimony in Rio de Janeiro  
25 at the finance police department.

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2 THE INTERPRETER: The interpreter heard  
3 the word, the interpreter does not want to  
4 add words that are not said because then --  
5 but thank you very much.

6 Q. Okay. You mentioned that you gave some  
7 documents to your lawyer. Who are you referring  
8 to?

9 A. Ubiratan Mattos and a few attorneys from  
10 his office who were dealing with my case.

11 Q. And when you refer to your case, what  
12 are you referring to?

13 A. My labor suit against Petrobras for  
14 harassment and for reducing my salary and also the  
15 communication with Petrobras' ombudsman for the  
16 same reasons.

17 Q. Do you know if your counsel provided any  
18 documents from your labor lawsuit to the lawyers  
19 representing the plaintiffs in the U.S. litigation?

20 MS. GILMORE: Objection to form. I also  
21 advise you not to disclose any  
22 attorney-client privilege between Mr.  
23 Ubiratan and you.

24 A. I accept it.

25 Q. I don't understand your answer.

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2 A. I'm not going to answer.

3 Q. Is it because you believe doing so would  
4 disclose privileged information?

5 A. No.

6 Q. So what is the reason why you are not  
7 answering my question?

8 MS. GILMORE: If there is something that  
9 you think would disclose attorney-client  
10 privilege, you shouldn't respond. If you  
11 think you can provide information without  
12 disclosing attorney-client privilege, you  
13 can respond.

14 A. The answer is no.

15 Q. Going back to February 16, the first day  
16 of your deposition, do you recall that during the  
17 day we took several breaks? Is that right?

18 A. Yes.

19 Q. At any time on any of those breaks did  
20 you discuss with counsel for the plaintiffs your  
21 testimony that you were giving on February 16?

22 MS. GILMORE: Objection to form.

23 A. No.

24 Q. Did you have any discussions with  
25 counsel for the plaintiffs on breaks on

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2 February 16?

3 MS. GILMORE: Objection to form.

4 Relevance.

5 A. No conversations about the case, just  
6 about informal matters such as it is cold today, it  
7 is raining, what a beautiful view, things of that  
8 nature.

9 Q. Do you have an understanding of what  
10 this U.S. litigation that you are testifying in  
11 today is about?

12 A. Yes, I do.

13 Q. What is that understanding?

14 A. I read the documentation, and this suit  
15 is an investors suit who were misled or who are  
16 alleged to have been misled by the company because  
17 the company did not provide realistic information  
18 as to its financial situation and the way it would  
19 approve the projects, and now the company says that  
20 it did not know what was going on.

21 Q. Other than from reading -- strike that.  
22 When you said you read the documentation, what  
23 documentation were you referring to?

24 A. One part was provided by Petrobras  
25 itself when I was notified, newspapers and at the

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2 meeting when I was summoned by them and they said  
3 what issues were being addressed during the suit.

4 MS. LEVI: They the lawyers, the  
5 defendants' lawyers in the U.S.

6 A. You yourself was the one who told me  
7 about it.

8 THE INTERPRETER: The interpreter is  
9 saying exactly what is being said.

10 MR. COOPER: Let's be clear then. When  
11 we discuss the translation, we should not be  
12 having any impact upon the testimony.

13 MS. LEVI: Sorry.

14 THE INTERPRETER: May I ask her to  
15 intervene when I notice you haven't  
16 translated correctly?

17 MR. COOPER: Absolutely.

18 THE INTERPRETER: So please continue.

19 Q. Do you believe that your testimony, the  
20 testimony you gave on February 16 and the testimony  
21 you are giving today, will assist the plaintiffs in  
22 this action?

23 MS. GILMORE: Objection to form.

24 A. The attorneys have to answer that, not  
25 myself. I am just going to tell the truth.

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2 Q. Do you want your testimony in this  
3 deposition to be helpful to the plaintiffs?

4 MS. GILMORE: Objection to form.

5 A. I am here to answer your questions and  
6 to tell the truth. I'm not interested in whom that  
7 is going to provide assistance to.

8 MR. KEHOE: Roger, could we take a  
9 30-second break to lower the shades?

10 MR. COOPER: Off the record.

11 THE VIDEOGRAPHER: The time is 10:18  
12 a.m. We are going off the record.

13 (Recess taken)

14 THE VIDEOGRAPHER: This is the  
15 continuation of tape number 1. The time is  
16 10:19 a.m. Back on the record.

17 BY MR. COOPER:

18 Q. Let's focus on your work history at  
19 Petrobras in the downstream area. When did you  
20 begin working in the downstream area of Petrobras?

21 A. 2004.

22 Q. How did that come about?

23 A. I was invited by the officer Paulo  
24 Roberto Costa to be his assistant.

25 Q. Did you know Paulo Roberto Costa at that



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2 time?

3 A. Yes, I did.

4 Q. How did you know him?

5 A. Before working at the downstream  
6 division, I worked at GASPETRO. I was natural gas  
7 manager, and he was business manager, and then I  
8 started to work at the gas and energy division. He  
9 was a logistics manager, and I was gas invoicing  
10 manager.

11 MR. MARTINI: In order to clarify the  
12 record, please clarify if the translation is  
13 manager or officer, business manager or  
14 business officer for GASPETRO.

15 THE INTERPRETER: He was a business  
16 officer, but the interpreter heard the word  
17 "manager" before.

18 Q. How long did you work at GASPETRO?

19 A. Between GASPETRO and gas e energia,  
20 well, I started to work at GASPETRO in August 2000,  
21 and then I went to the gas and energy division, and  
22 it was four years during that period.

23 Q. When did you first meet Paulo Roberto  
24 Costa?

25 A. It is when I started to work for

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2 GASPETRO, but I was not working directly with him.

3 Q. Do you remember what year that was?

4 A. 2000.

5 Q. Now going to your time in the downstream  
6 division of Petrobras, I believe you said that your  
7 first position was as assistant to Paulo Roberto  
8 Costa, is that correct?

9 A. At downstream?

10 Q. Yes.

11 A. Yes.

12 Q. Okay. What were your responsibilities  
13 as the assistant to Paulo Roberto Costa?

14 MS. GILMORE: Objection to the form.  
15 Where?

16 A. To provide assistance to Paulo Roberto  
17 Costa.

18 Q. Can you say more about what you did in  
19 providing assistance to Paulo Roberto Costa?

20 A. I was an advisor to the officer.

21 Q. For how long were you in the position of  
22 assistant to Paulo Roberto Costa?

23 A. Four to five months.

24 Q. Was that because you were then promoted?

25 A. I started to occupy the position of

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2 general manager for planning.

3 Q. Do you remember what year you became the  
4 general manager of planning?

5 A. 2004.

6 Q. How did it come about that you became  
7 the general manager of planning?

8 A. Before the planning division, I was a  
9 manager. I had been a manager at different  
10 divisions outside downstream. I implemented  
11 various different projects of restructuring  
12 including structuring and planning. These projects  
13 gained a lot of visibility at the company so they  
14 ended up changing the structure of many different  
15 areas of the company, and with that my expertise  
16 was recognized by all within the company and then  
17 opportunities for managing changes had occurred.

18 Q. Did Paulo Roberto Costa promote you from  
19 assistant to general manager of planning?

20 A. All officers of Petrobras are the ones  
21 who promote general managers, and the executive  
22 board is the one who promotes executive managers.  
23 Those were the rules in those days for the company.

24 Q. So is the answer to my question yes?

25 MS. GILMORE: Objection. Asked and

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2 answered.

3 A. As I mentioned, all officers would  
4 appoint the general managers for their area. He  
5 was an officer, I was general manager, so that is  
6 how it happened.

7 Q. So the answer is yes?

8 MS. GILMORE: Objection. Asked and  
9 answered two times.

10 Q. I just want to make sure the record is  
11 clear. So your answer is that yes, that Mr. Costa  
12 did promote you to the position of general manager  
13 of planning?

14 MS. GILMORE: Objection. Misstates the  
15 testimony. Asked and answered.

16 A. Yes, according to the norms of the  
17 company and also upon recognizing my expertise.

18 Q. In the position of general manager of  
19 planning, what were your responsibilities?

20 A. Management. Actually not management.  
21 That is an executive part. It was strategic  
22 planning, budgeting, competitive intelligence,  
23 project portfolio management. Strategic planning  
24 and performance.

25 Q. Did you have any responsibility for

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2       drafting contracts?

3                   MS. GILMORE: Objection to form.

4                   A.     When you say drafting, you are talking  
5       about the technical aspect or the formal aspect of  
6       it?

7                   Q.     Why don't I just ask you more generally,  
8       what role, if any, did you play in drafting  
9       contracts in your position as general manager?

10                  MS. GILMORE: Objection to form.

11                  A.     Well, depending upon the technical  
12       contents and depending upon what will be contracted  
13       and how I would utilize the contract and if I would  
14       have any indirect responsibility over the contract,  
15       you can suggest changes through experts involved  
16       within the process.

17                  Q.     You made reference to indirect  
18       responsibility over a contract. I just want to  
19       understand. Is there another area, a division of  
20       the company that has as its principal  
21       responsibility the contracting process?

22                  MS. GILMORE: Objection to form.

23                  A.     Petrobras has regulations when it comes  
24       to the contracting process and within this process  
25       it requires to create multidisciplinary

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2 commissions, and depending upon the object of that  
3 contract, many areas will be involved, but the  
4 contracting party is the one who coordinates the  
5 process.

6 Q. Is there a particular division that  
7 under Petrobras' regulations has the job of being  
8 the contracting party that coordinates the process?

9 MS. GILMORE: Objection to form.

10 A. As I mentioned before, the contracting  
11 party is present at the whole company. It is  
12 really going to depend upon the contracted object.

13 Q. Good. I just want to go through a  
14 little more about your responsibilities as general  
15 manager of planning. At any time as general  
16 manager of planning were you involved in  
17 negotiating any contracts?

18 MS. GILMORE: Objection to form.

19 A. Usually that is done by the expertise  
20 divisions under the direction of the general  
21 managers.

22 Q. How long were you in the position of  
23 general manager of planning?

24 A. I think it was approximately two years.

25 Q. So do you think until approximately

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2 2006? Is that what you remember?

3 A. I believe so. I really don't have the  
4 date here, so I don't remember exactly.

5 Q. But did you then --

6 A. I'm not sure. 2005 or 2006.

7 Q. But did you have a new position after  
8 being general manager of planning? Did you have a  
9 new position within downstream?

10 A. I occupied various different positions.

11 Q. In downstream following your position as  
12 general manager?

13 A. I occupied many different positions  
14 after the planning general managing position.

15 Q. What was the next position that you  
16 held?

17 A. Executive manager.

18 Q. Can you explain to me what the executive  
19 manager does? What is that role?

20 A. Besides the planning general management,  
21 it used to coordinate the corporate managing  
22 management division, human resources, health  
23 environment and safety and risk division. The risk  
24 division.

25 Q. As general manager of planning did you

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2 continue to work with Paulo Roberto Costa?

3 A. As a planning general manager, I worked  
4 with Paulo Mauricio. I worked directly with Paulo  
5 Mauricio, who was executive manager, and later as  
6 general executive manager I worked directly with  
7 Paulo Roberto Costa.

8 Q. And for how long or until when -- strike  
9 that. You said you had several positions. Was  
10 there a position that you held after executive  
11 manager in the downstream area?

12 A. I was Petrobras biotrade general  
13 manager, and I was president officer of PSPL.

14 Q. But those positions were no longer in  
15 the downstream division of Petrobras, correct?

16 A. That is wrong.

17 Q. All right. I stand clarified. Thank  
18 you. For how long were you the executive manager  
19 in the downstream?

20 A. Until October 2009 when I was demoted  
21 because I refused to change the economic study that  
22 would allow for the full performance of the plans  
23 at the northeast refinery.

24 MR. COOPER: Move to strike as  
25 non-responsive.



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2 MS. GILMORE: Completely responsive.

3 Q. Let me focus your attention. During the  
4 time when you were executive manager in the  
5 downstream division and specifically in connection  
6 with the RNEST refinery project, what role, if any,  
7 did you personally have in negotiating construction  
8 contracts for the refinery project?

9 MS. GILMORE: Objection to form.

10 A. In relation to your remarks about  
11 focusing my attention, if you ask objective  
12 questions, you will have objective answers. When  
13 it comes to the role during negotiations of  
14 refinery constructions, it was only one time that I  
15 was involved within a contracting process. It was  
16 regarding bidding for a power house at the  
17 refinery, and Alusa was the contracting company.

18 The officer was alerted about the  
19 proposal that was submitted because it was much  
20 above the initial proposal and it was an  
21 aggravating factor because this proposal followed a  
22 contracting model used by Petrobras, and that was  
23 not -- it was not the international model that was  
24 claimed, and I wrote to Paulo Roberto Costa asking  
25 to postpone the process so that we could verify at

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2   the opening of additional processes so that we  
3   could see if what was being presented was  
4   compatible with additional proposals within the  
5   market.

6                   He said to go ahead, but asked me to  
7   speak with Alusa, which I did.

8                   THE INTERPRETER: Actually, no, by the  
9   interpreter, she will correct herself.

10                  A.   What I did, however, was to submit a  
11   list of items that could not be postponed reminding  
12   that these non-postponable items were the ones made  
13   possible to follow up the contract and to make sure  
14   that other events specified within contracts would  
15   be abided by.

16                  Then initially the company submitted a  
17   proposal, I think that was within the time frame of  
18   two days, and it submitted a proposal with a price  
19   that was higher than the one that it had submitted  
20   before, and then dealing with the company  
21   subsequently it gave a discount again within the  
22   contract. I think it was of one million, I'm not  
23   sure.

24                  MS. LEVI: She said dealing with the  
25   director himself.

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2 MR. MARTINI: Executive officer.

3 THE INTERPRETER: Thank you.

4 A. This was put within the report of the  
5 commission created to check on the northeast  
6 refinery. That was noted as a non-compliance on my  
7 part because the price was already set within a  
8 tender that was established already, but since the  
9 officer requested me to talk with Alusa, I tried  
10 not to mention the proposal itself, but I tried to  
11 clarify that those items should be on a planning  
12 addendum on their part.

13 As far as I remember, this is the only  
14 time. I don't know any contracting companies, and  
15 I never dealt directly with any of them, and that  
16 was the engineering division responsibility, and  
17 since we were the ones responsible for budgeting  
18 and for the performing, in other words, we would  
19 receive the refinery upon its completion, so the  
20 intention was to commit more not to the  
21 negotiations but with the implementation process.

22 Q. Is the same true for the bidding process  
23 or the process of companies bidding for a contract?  
24 Did you play any role in the bidding process?

25 A. As I mentioned, the only time that I was

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2 requested to hold a meeting, it was the power house  
3 tender. The people in my division took part as a  
4 part of the commission in my area in regards to the  
5 structuring.

6 MR. MARTINI: Could we clarify.

7 A. Individuals who worked within my  
8 executive division participated within these  
9 meetings. In other words, bidding commissions.

10 Q. But my question was whether you  
11 personally had participated in any bidding  
12 commission?

13 A. No.

14 Q. Okay. Last time on February 16 you  
15 testified about the communications area of  
16 downstream. Do you remember that testimony?

17 A. Yes, I do.

18 Q. Can you describe what the communications  
19 area of downstream is.

20 A. All executive boards in those days had a  
21 communication managing division that was under the  
22 corporate general management, and that was under  
23 the executive management. They dealt with social  
24 responsibility projects and promoted events related  
25 to the communications area. Actually, to the

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2 downstream division.

3 MR. MARTINI: For purposes of clarifying  
4 the record, could you please clarify if in  
5 the beginning of the answer it is executive  
6 boards or executive managements that had  
7 communication managing divisions.

8 THE WITNESS: Executive managers, yes,  
9 but it is all the officer division that had  
10 a communication management division that was  
11 within this general managing division.

12 Q. What do you mean by social  
13 responsibility projects?

14 A. Within the downstream division, we have  
15 the executive refining management division, and  
16 these refineries, they do construction, so they  
17 have many different environmental licensing  
18 procedures, because somehow these refinery projects  
19 may impact neighboring areas, so the licensing  
20 agency that allows for operations, many times these  
21 are created, and they require offsetting or  
22 mitigating measures for these processes.

23 That is when the social responsibility  
24 projects or processes are created, so that is the  
25 true meaning of this project, to repair, to

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2 mitigate any damages that may occur within the  
3 downstream division.

4 Q. So I understand, could you give me some  
5 examples of what kind of projects you are talking  
6 about?

7 A. Let's assume that a refinery is  
8 expanding, and this expansion will be placed in one  
9 area within the refinery, but that somehow affects  
10 the community. It may be air pollution or noise or  
11 even to eliminate employment, so an agreement with  
12 environmental agencies or with these affected  
13 areas, so projects are created to reduce, they can  
14 be education projects where they are going to be  
15 trained for other types of activities or even to  
16 form cooperative groups, associations. It depends  
17 on the community where the project is located.

18 These projects can be cultural projects.  
19 They can also be physical activity-related projects  
20 in order to take away children, adolescents and  
21 other individuals from inactivity.

22 Q. You also said that communications plays  
23 a role or one of its jobs is to promote events  
24 related to the downstream division. Can you just  
25 so I understand what kind of events you are talking

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2    about, can you give me some examples of the types  
3    of events that the communications area would  
4    promote.

5                A.    I am going to give you three types of  
6    examples.   Internal for Petrobras, examples  
7    connected to Petrobras projects and events required  
8    by the officers of Petrobras or the CEO himself.

9                Internal examples are celebrations for  
10   the amount of time that employees are in the  
11   company.   These events also can be celebrations for  
12   the end of the year to celebrate what happened  
13   within the previous year.   They can be events for  
14   visiting refineries or other locations so that  
15   families can visit those locations.   Examples also  
16   connected to projects.   We had many different  
17   opening celebrations for the northeast refinery.

18               Actually an interesting fact is that  
19   within one of these celebrations, the President of  
20   Brazil and officers for Petrobras were present and  
21   there was a podium, a tractor and support  
22   activities.   One million reais were spent after the  
23   problems were discovered.

24               As a last example, it would be officers  
25   requiring events for financing projects such as

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2   carnival, which everybody knows it is very  
3   well-known worldwide.

4                   So Petrobras within its contracting  
5   would invite members of the downstream division to  
6   take part in these events as a way of building  
7   client relationships. It would also invite high  
8   management and their families and it also would  
9   invite a group of employees to attend. We received  
10   very different complaints and suits for deviating  
11   those funds for these processes in those days, but  
12   this year it still continues to provide these types  
13   of events. Incentives, not events.

14                  MR. MARTINI: Maybe clarify for the  
15                   translation, I believe the witness said  
16                   Petrobras. In the translation it is saying  
17                   so Petrobras within its contract would  
18                   invite members of the downstream division  
19                   just to clarify.

20                  THE WITNESS: Petrobras through  
21                   agreement would provide these incentives.

22                  Q. I want to make sure I understand one  
23   thing you said. You said you received very  
24   different complaints and suits for deviating those  
25   funds for these processes. When you say suits,



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2 what are you referring to?

3 THE INTERPRETER: The interpreter would  
4 like to say the word in Portuguese could be  
5 "suits" or "measures." So these are not  
6 legal suits, they are measures, actions, so  
7 the interpreter will stand corrected on the  
8 record.

9 Q. I think you also said there was a third  
10 category. Maybe these two blended together, but  
11 the events requested by officers or the President,  
12 that is what you are referring to there? I just  
13 wanted to be clear.

14 A. Yes.

15 Q. Now you also testified the last time we  
16 spoke about Mr. Geovane de Moraes, right, who was  
17 in the communications area of downstream in 2008.  
18 Do you recall that testimony?

19 A. That I mentioned Geovane, yes, I do.

20 Q. Good.

21 A. Before your next question, can we have a  
22 break? I need to go to the ladies' room.

23 Q. Sure.

24 THE VIDEOGRAPHER: The time is 11:09  
25 a.m. We are going off the record.

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2 (Recess taken)

3 THE VIDEOGRAPHER: This begins tape  
4 number 2. The time is 11:28 a.m. We are  
5 back on the record.

6 BY MR. COOPER:

7 Q. Ms. da Fonseca, so we were about to  
8 speak about Geovane de Moraes. Can you tell me  
9 what his position was in 2008?

10 A. Downstream division communications  
11 manager.

12 Q. Do you know how long he was in the  
13 position of communications -- I'm sorry. Strike  
14 that. How long -- when did he start in the  
15 position of communications manager in the  
16 downstream division?

17 A. I think it was in 2004.

18 Q. And who was his direct supervisor in  
19 2008?

20 A. I had two direct supervisors, two  
21 general managers. Carmen was the first one and  
22 retired, and the second was Jose Roberto Kaschel.

23 MR. MARTINI: It is he had two direct  
24 supervisors, not I had two. Just  
25 clarifying.

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2 THE INTERPRETER: Yes.

3 Q. Do you recall when Carmen retired?

4 A. I think it was at the end of the first  
5 half of the year 2008.

6 Q. And to whom did Carmen and then later  
7 Mr. Kaschel report to within the downstream  
8 division?

9 A. Theoretically within the flow chart,  
10 they were subordinated to me.

11 Q. Just so I understand, subordinated, you  
12 mean to say they reported to you?

13 A. Only theoretically.

14 MR. MARTINI: Apologies. Theoretically,  
15 yes. That is the answer.

16 THE INTERPRETER: Okay.

17 Q. What do you mean by theoretically?

18 A. Because this communication division  
19 provided services to all other executive  
20 managements, and also to the CEO and officers, so  
21 they many times address issues directly with  
22 whomever would inquire.

23 Q. And do you mean to say that that is the  
24 case for Geovane de Morais or Carmen and Mr.  
25 Kaschel?

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2 A. It was like that for Geovane de Morais  
3 and for Carmen.

4 Q. What about for Mr. Kaschel?

5 A. No.

6 Q. How was it different for Mr. Kaschel?

7 MS. GILMORE: Objection to form.

8 A. He started to occupy the general  
9 management position when there were a lot of  
10 inquiries about the way the processes were going,  
11 so this limited communication and the processes  
12 that were conducted within the communications  
13 division.

14 Q. When you referred that I think your  
15 testimony was there were a lot of inquiries, but  
16 the line is missing from the screen. Into the  
17 processes. I wanted to ask you what inquiries you  
18 remember, but I wanted to ask you specifically what  
19 you remember, but prior to the first CIA that was  
20 commenced into the communications area and Mr.  
21 de Morais.

22 MS. GILMORE: Objection to form.

23 A. In those days there was an ongoing  
24 project for cost optimizing within the downstream  
25 division, so drives were built for each process

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2       that would allow for inquiries regarding cost. For  
3       example, overtime. I had two refineries with  
4       similar processing capacity and similar profile.  
5       However, overtime costs in one could be much more  
6       than the other, and when you compared both, there  
7       were inquiries as to the reason why one would spend  
8       so much more than the other.

9                   The same occurred within the  
10       communications division. However, the difficulties  
11       within the communications department was related to  
12       drivers mapping. Why? Because of the process in  
13       which corruption or deviation occurred. The cost  
14       centers that they spent were not within the  
15       communications management, but if they in any event  
16       would forget to perform this manicuring in one  
17       event or this makeup in one event, the cost which  
18       is much more than another project that had much  
19       more complexity and much more infrastructure, so  
20       therefore there was questioning or inquiry phase.

21               Q.    Were you personally involved in the  
22       inquiry phase that you just described?

23               A.    Myself as an executive manager, I try to  
24       align. I would follow up with the continuous  
25       activities of all the projects on a weekly basis,

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2     but when -- however, when a problem was detected  
3     and when there was evidence that something was  
4     happening that was not according to policies and  
5     procedures, first, it was reviewed or analyzed  
6     within the management where it occurred, and if the  
7     manager thought that that issue should be taken up  
8     to the general management meeting, it was taken up  
9     to the general management, and if during the  
10    general managers meeting the issue was deemed  
11    serious enough to be taken up to the executive  
12    management, it was then taken up to the executive  
13    management, so therefore I would be involved when  
14    the issue would require me to do so.

15               Q.    I am going to show you what I have now  
16    marked as da Fonseca Exhibit 20, and so for the  
17    record, it is Bates stamped PBRCG-P underscore  
18    01738124 through 125.

19                   (da Fonseca Exhibit 20, Document bearing  
20               Bates numbers PBRCG-P underscore 01738124  
21               through 125, was so marked for  
22               identification, as of this date.)

23               MS. GILMORE: For the record, plaintiffs  
24               object to the translation to the extent they  
25               haven't had a chance to review it and

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2 determine its accuracy.

3 Q. Please take a moment to look at what has  
4 been marked as Exhibit 20 and let me know when you  
5 have finished. This is a certified translation.

6 MS. GILMORE: This is the first time I  
7 see it, and I would like to have time to  
8 review it, so at this point we object to the  
9 translation to the extent it doesn't  
10 accurately reflect the Portuguese.

11 MR. COOPER: Duly noted, but I don't  
12 think we have any agreement that we are  
13 sharing translations in advance, nor do we  
14 have an obligation to do so.

15 A. As I read here, what is written in  
16 Portuguese is not what is translated. May I speak  
17 in Portuguese? Here in the Portuguese version it  
18 says that before I transmit the guidance or the  
19 guidelines, I wanted to speak with the officer.  
20 Does it say here that I wanted to submit the  
21 guidelines to the officer? Is that what it says?

22 MR. COOPER: It says first for the  
23 record, the witness is commenting on the  
24 translation of the e-mail, which is on the  
25 Bates numbered page ending in 124, and I

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2                   will say for the record that the issue is  
3                   the translation of I think the sentence, but  
4                   I would like to talk with you before giving  
5                   you guidance and the sentence does say  
6                   speaking before.

7                   THE WITNESS: Here is it the officer?  
8                   Here is it the officer? That makes all the  
9                   difference.

10                  Q. I think the question is whether the  
11                  translation should have the word "you" in it? Is  
12                  that the question?

13                  A. When you show me this document, I am  
14                  certifying to the whole document, and here I see  
15                  that there is a very serious mistake on the  
16                  translation. I'm not conveying any guidelines to  
17                  the officer.

18                  Q. To make this easier, if you see a  
19                  translation issue in a part of the document that I  
20                  ask you about or that I direct you to, then we  
21                  would all appreciate it if you point out the  
22                  translation discrepancy or issue, but it is  
23                  absolutely clear that you are not conceding to the  
24                  accuracy of the translation of the entire document  
25                  that I show you simply because it is put before



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2 you. We don't expect you to go through and check  
3 the translation. That would take us all day.

4 A. In this case it is a very serious  
5 mistake. A company of the size and structuring of  
6 Petrobras, I receive orders from the ones above me,  
7 I do not give any orders to the ones above me, and  
8 that makes all the difference within a document of  
9 this nature.

10 I don't know if this whole document is  
11 going to be taken to court. How can I certify to a  
12 document that I know already that is not correct?

13 Q. I don't want to ask you about the e-mail  
14 right now anyway, I want to ask you about the  
15 document attached to it. I think your objection to  
16 the translation is duly noted. If you want to say  
17 anything more on the record?

18 MS. GILMORE: Yes, her objection should  
19 be duly noted, and if you want to forego the  
20 e-mail.

21 MR. COOPER: We may come back to it, but  
22 for right now.

23 MS. GILMORE: Let's forget about the  
24 e-mail and focus on the other part that you  
25 want to ask her about.

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2 Q. I direct your attention to the  
3 attachment which has at the top the word "Note."  
4 12/3/2008. So my first question is do you  
5 recognize the attachment titled "Note" at the top  
6 as a document that Mr. Kaschel forwarded to you on  
7 December 3rd, 2008?

8 A. Yes, I do.

9 Q. So you made reference to inquiries into  
10 certain communications issues in previous answers.  
11 Do you recall personally being involved in any  
12 inquiries into issues in the communications area  
13 prior to receiving this note from Mr. Kaschel on  
14 December 3rd, 2008?

15 MS. GILMORE: Objection to form.

16 A. As I said before, we used to hold weekly  
17 meetings on all management levels, so if there were  
18 any problems that happened on a lower level that  
19 needed an upper level review, that would happen.  
20 And if you note here, the first sentence on the  
21 document where it says required controls to the PEC  
22 objectives, which is the project that I referred to  
23 previously, so during my meetings before this  
24 document we discussed the difficulty of controls  
25 within the communications division and difficulty

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2   of obtaining information, and up until that time I  
3   had no knowledge in a structured manner of  
4   systematic issues in that area because the  
5   information or data was not reliable.

6               Q.    So you referred to meetings that you had  
7   before this document.  When did those meetings  
8   happen?

9               A.    On a weekly basis.

10            Q.    But when specifically, what date did  
11   those meetings start when you had discussions of  
12   the difficulty of controls within the  
13   communications division and the difficulty of  
14   obtaining certain information?

15                   MS. GILMORE:  If you remember.

16            A.    Can you see the date below the note?  
17   2008.  You are asking me about dates of weekly  
18   meetings that happened eight years ago.  Is that  
19   what you are doing?

20            Q.    I am asking you what your recollection  
21   is of when the meetings you are referring to began.  
22   When did they start?

23                   MS. GILMORE:  Objection to form.

24                   If you remember.

25            A.    Weekly meetings happened according to

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2 the management models adopted by the downstream  
3 division, they happened every week.

4 Q. I understand that, but do you remember  
5 when the first meeting happened that you discussed,  
6 at which you discussed the difficulty of controls  
7 within the communications division and the  
8 difficulty of obtaining the information you  
9 referred to previously?

10 A. No.

11 MS. GILMORE: Objection to form. Asked  
12 and answered.

13 Q. Let's look at the note that Mr. Kaschel  
14 sent to you. You already referred to the goals of  
15 PEC and the difficulties he refers to.

16 I direct your attention to the latter  
17 part of the first paragraph, and he refers to ZPQS  
18 contracting of small services. Do you know what  
19 that refers to?

20 MS. GILMORE: Objection to the form.

21 A. These are small amount contracts and the  
22 company is the one who defines the amounts that  
23 need to be in order for it to be defined as ZPQS.

24 And payments for these contracts were made  
25 through -- on SAP, and there was a problem with

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2     this payment system, because the payment threshold  
3     did not match the amounts for contracting those  
4     small services.

5               Q.     Were there procedures in place at this  
6     time at the company that related to small amount  
7     contracts, the ZPQS, that were different from the  
8     procedures that governed the process for larger  
9     contracts?

10              MS. GILMORE:  Objection to form.

11             A.     As I said before, I'm not expert in this  
12     contracting area and usually those large contracts  
13     were construction contracts, and as far as I know  
14     the small service threshold were applied to the  
15     whole company.  But again, I could be mistaken  
16     because I was not the -- the construction  
17     contracting area was not my area.

18             Q.     Do you know whether the small payment  
19     contracts required competitive bidding?  Strike  
20     that.  Were there bidding procedures that applied  
21     to the small payment contracts, if you know?

22             A.     The problem here is what is a small  
23     contract?  The small contract can be a subdivision  
24     of a large contract.  In order for it not to veer  
25     off of the communication area, let's say if I am

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2     going to have to hold -- I'm sorry -- let's say I  
3     am holding an event to host the president at the  
4     northeast refinery. I can draw up a contract for  
5     the event, so I can have a different contract to  
6     hire the tractor or to hire the podium or to hire  
7     music or helicopter or the food or coffee or a car  
8     that will transport the president.

9                   So what happened is that an event that  
10    could cost 200,000 could cost 20 installments of  
11    10,000, and the biggest problem is that an event  
12    that probably would cost 200,000 ended up costing  
13    1 million.

14                  I remember my previous testimony that I  
15    mentioned an e-mail that was sent to the officer  
16    Paulo Roberto Costa. He refers very clearly to the  
17    big contract turning into various different small  
18    contracts, so there is a replacement. So the  
19    problem here is not if I need to have a bidding for  
20    a competitive process or not, the biggest problem  
21    is to turn a larger contract that can be bid in  
22    small contracts that make it impossible to do a  
23    bidding.

24                  MR. MARTINI: Can we clarify. If it is  
25                   impossible to do a bidding or unnecessary to

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2 do a bidding? The translation.

3 THE WITNESS: According to policies, it  
4 may be unnecessary. In reality, if it is  
5 let's say coffee in a small town in  
6 Pernambuco, and then you are going to have  
7 thousands of ladies who make the coffee and  
8 then that bidding is going to be impossible.

9 Q. At the time though, am I correct that  
10 the rules governing ZPQS did not permit this kind  
11 of subdividing of contracts into smaller pieces?  
12 Is that right?

13 MS. GILMORE: Objection to form.

14 A. You are not correct. It is not the  
15 small contract that does not allow for a  
16 subdivision, it is the large contract that cannot  
17 be subdivided.

18 Q. Thank you for the question, but there  
19 are rules, the rules you are referring to that  
20 relate to large contracts that prohibit the  
21 subdivision of contracts into smaller contracts.  
22 Is that right?

23 MS. GILMORE: Objection to form.

24 A. We have a contracting manual at  
25 Petrobras. They may have been changed nowadays,

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2 but these manuals have always existed, and that  
3 large contracts we need to bid and that they would  
4 unnecessarily be competitive and that small  
5 contracts were allowed in order to expedite the  
6 procedures, and the divisions would adopt the best  
7 practices and in that case to get three or four  
8 proposals.

9 MR. MARTINI: Just one correction. For  
10 the record, it is stated that would  
11 unnecessarily be competitive. Can the  
12 translator please clarify if it was  
13 necessarily be competitive.

14 THE INTERPRETER: The interpreter said  
15 necessarily.

16 Q. Let me direct your attention to the note  
17 Exhibit 20 in front of you. Two-thirds of the way  
18 down there is an item 5 where Mr. Kaschel writes  
19 "There is evidence in the assessment carried out a  
20 failure to comply with internal legal standards  
21 with respect to contracting," and I want to direct  
22 your attention then to the first bullet point. He  
23 says various payments for small services carried  
24 out by the same company with very short intervals  
25 between bordering on the maximum limit for ZPQS



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2     characterized by the issue of a series of invoices  
3     in order to avoid the need for contracting of  
4     another type.

5                   My question is do you believe that Mr.  
6     Kaschel here is pointing out this issue of  
7     subdividing contracts that you are discussing right  
8     now?

9                   A.    He says here preliminarily, because up  
10    until that time there were no investigations  
11    conducted. He says that the review was  
12    superficial, but that would make believe in the  
13    subdivision of a large contract.

14                  MS. LEVI: Led him to believe.

15                  THE INTERPRETER: Led him to believe.

16                  Q.    In bullet point 2, he also says payments  
17    for small services made to suppliers who today  
18    continue to maintain a contract with, and then  
19    AB-CR/GC/CI. First, I want to ask you what do  
20    those letters at the end stand for?

21                  A.    Well, here suppliers had a larger  
22    service contract and at the same time they were  
23    receiving payments for small services that may have  
24    been carried out or not. As you can see here, on  
25    the last sentence, they had not done the research

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2 of counterparties and justifications.

3 Q. First, where in this note does Mr.  
4 Kaschel raise any issue of whether the services had  
5 actually been performed or not, a question of  
6 whether they had been performed or not, as  
7 consideration for payments paid?

8 MS. GILMORE: Objection to form. And I  
9 recommend that you take time to review this  
10 document if you haven't had time to review  
11 it since he is asking you questions about  
12 the whole document.

13 MR. COOPER: She has all the time she  
14 wants to review the document, but no  
15 speaking objections.

16 MS. GILMORE: I don't believe so, but  
17 she should be the judge of that.

18 A. What is the question then?

19 THE INTERPRETER: May the interpreter  
20 read the question again.

21 (Record read)

22 A. Here in item 3 it says that expenditures  
23 were much above of what they were paying. When you  
24 do a budgeting, you do the budgeting with forecasts  
25 of what is going to be spent. If what you

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2    predicted or forecasted would cost 28.8 million,  
3    how can you spend 133 million? What explained this  
4    if the expected working product was 30? So there  
5    is a gap of 100 million which equals three times  
6    the forecasted amount and within only eight months,  
7    whereas the economy was extremely stable, low  
8    inflation levels, which is evidence even though it  
9    hadn't been raised yet that the product should not  
10   be part of that management's portfolio.

11               Q.    So it is your testimony that in  
12   paragraph 3 Mr. Kaschel identifies as a reason for  
13   costs exceeding budget that services for which  
14   payment was made had not been performed?

15               MS. GILMORE:  Objection.  Asked and  
16               answered.

17               A.    Look, fortunately within a work  
18   environment, we have more than one note to evaluate  
19   and over which to make decisions. Here the  
20   decision to be made was are we going to investigate  
21   or are we not going to investigate, but this note  
22   already contains enough elements in order to start  
23   an investigation, a high difference between what  
24   was budgeted and what was realized.

25               Services that could be part of a large

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2       contract being subdivided into small contracts, you  
3       have providers or suppliers receiving through ZPQS,  
4       why not through small contracts.

5                   THE WITNESS: No.

6                   THE INTERPRETER: Interpreter stands  
7       corrected.

8               A.     Why not through the contract that they  
9       had. So there was a failure in the system, so the  
10      system would allow payments to be realized,  
11      payments that were above the threshold of the  
12      management that was performing those contracts or  
13      services.

14                   In other words, this note sums up  
15      elements that more than require an investigation  
16      unless you do not want to investigate, and later  
17      were proved the existence of all these contents  
18      described within this note was the report created  
19      by the second commission, which was a commission  
20      that I myself implemented that was very different  
21      from the one created by the division by the CEO  
22      Gabrielli's cabinet.

23                   That report is evidence of someone who  
24      does not want to investigate responsibilities.

25      Different from my division's report who evidenced

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2 that evidenced more than 40 percent or 60 percent,  
3 I'm not really sure, but that number is not going  
4 to make a difference in the conclusion that  
5 payments were made without evidencing appropriately  
6 services provided.

7 If we link the report with this note, if  
8 you link the report's content with the note, you  
9 have evidence that the difference in budget of what  
10 was forecasted and what was provided is really the  
11 lack of services and of overbilling.

12 MR. COOPER: Move to strike as  
13 non-responsive.

14 MS. GILMORE: Absolutely responsive.

15 MR. COOPER: Non-responsive.

16 MS. GILMORE: Because you don't like the  
17 response, but it is responsive.

18 MR. COOPER: I have no issue with what  
19 happened in the investigations that  
20 occurred, but my question was about this  
21 note, it is not about, not yet about the  
22 subsequent investigations.

23 Q. My question was focused on paragraph 3,  
24 and I asked -- you referred to it, paragraph 3 in  
25 the note that is Exhibit 20 refers to costs

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2 exceeding budget, and I asked you is it your view  
3 that in paragraph 3 Mr. Kaschel identified one of  
4 the reasons that costs exceeded budget was because  
5 services were not provided in exchange for payment.

6 MS. GILMORE: Objection. Asked and  
7 answered.

8 A. I would like to ask you a question  
9 because I do not quite understand one sentence in  
10 the middle of your question and the interpreter  
11 would like to say she hasn't had a chance to  
12 interpret the question yet. You said that you are  
13 not familiar with the second commission's report?

14 Q. No. I am quite familiar with it. So we  
15 will get to it. I'm not asking you what happened  
16 in the first CIA or the second CIA, I am simply  
17 asking about what is contained in the note and what  
18 was known at the time that this note was prepared.

19 MS. GILMORE: Objection. Asked and  
20 answered.

21 A. I believe that I have to answer the  
22 questions with all the depth of knowledge that I  
23 have of facts and documentation, and if I do that,  
24 it is to make my answers more clear, and if you say  
25 you do not answer my question as it was posed, to

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2 me it seems I should not answer with all the depth  
3 and documentation that I have knowledge of. I am  
4 very sorry. Upon doing that, I feel harassed with  
5 the answers that I have here to provide.

6 Q. Let me go back and read my question. I  
7 am going to go back to one of your previous answers  
8 which was the start of the question that I am  
9 trying to get an answer to, and you in testifying  
10 about your understanding of the second bullet point  
11 under item 5 said that here suppliers had a larger  
12 services contract and at the same time they were  
13 receiving payments for small services that may have  
14 been carried out or not, and all I asked you was is  
15 there anything in this memo that Mr. Kaschel wrote  
16 that provides evidence that at this time he  
17 believed that some services may not have been  
18 carried out for payments made.

19 MS. GILMORE: Objection. Asked and  
20 answered several times. Calls for  
21 speculation. Continuing to harass the  
22 witness.

23 MR. COOPER: I'm not harassing the  
24 witness.

25 MS. GILMORE: She said you were.

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2 MR. COOPER: I ask as everyone here is  
3 my witness, am I harassing the witness?

4 MS. GILMORE: The witness said you were.

5 Q. Are you able to answer my question?

6 A. Which one?

7 Q. The one I just asked.

8 A. If you are talking about the question as  
9 per if this document has any evidence regarding  
10 payments that were made without services being  
11 provided, is that your question?

12 Q. That is a fair summary of the question,  
13 and if you can answer that question, yes.

14 MS. GILMORE: Objection. Asked and  
15 answered.

16 A. You want me to read the whole text,  
17 because I already answered that question?

18 Q. I believe you referred me to paragraph  
19 3.

20 A. I maintain my answer.

21 Q. I believe you referred me to paragraph 3  
22 in your answer and I would just ask is there any  
23 specific line in paragraph 3 that you believe  
24 provides the evidence you just referred to?

25 A. I spoke about costs realized and costs



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2       forecasted. I spoke about all the details in my  
3       previous answer.

4               Q.    Okay. Is it fair you have nothing more  
5       to add to your previous answer?

6               A.    No.

7               Q.    All right. Let's set that exhibit  
8       aside.

9                   MR. KEHOE: Could we go off the record  
10       for a moment.

11                  MR. COOPER: Yes. Off the record.

12                  THE VIDEOGRAPHER: The time is 12:30  
13       p.m. We are off the record.

14                  (Recess taken)

15                  THE VIDEOGRAPHER: This is the  
16       continuation of tape number 2. The time is  
17       12:42 p.m. We are back on the record.

18       BY MR. COOPER:

19               Q.    So we were looking at Exhibit 20 and a  
20       note dated December 3, 2008 attached to an e-mail  
21       to you of December 3rd, 2008. Do you recall that  
22       there was a DIP authorizing a CIA investigation  
23       commission to look into the issues identified by  
24       Mr. Kaschel that issued on December 5th of 2008?

25               A.    There were two DIPs. I don't remember

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2 their exact dates. One was submitted to GAPRE,  
3 which was the CEO's cabinet, and there was another  
4 one. The one that I started. Which one are you  
5 referring to?

6 Q. I show you a document that was marked on  
7 February 16 in the first day of your deposition. I  
8 was not trying to test your memory too much. It is  
9 the first page of da Fonseca Exhibit 7 that I was  
10 referring to.

11 MS. GILMORE: You can go ahead and flip  
12 through it. Do you have the Portuguese?

13 MR. COOPER: This is how it was marked  
14 the last time.

15 Q. Do you see? As of this date of December  
16 2008 had you ever participated in a CIA as a member  
17 of a commission as of this date?

18 A. No.

19 Q. What, if any, was your prior experience  
20 with CIAs like the one that was set up on  
21 December 5, 2008?

22 MS. GILMORE: Objection to form.

23 MR. COOPER: Let me rephrase the  
24 question. Strike that.

25 Q. So what, if any, experience did you have

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2   as of December 2008 with internal investigation  
3   commissions?

4           A.    I remember there might have been two,  
5   one of which was when I was executive manager. It  
6   was in the area of human resources where an  
7   investigation commission was formed. A few  
8   irregularities were detected. It was exactly for  
9   the division of a large contract into small  
10   contracts.

11               After it was detected, an investigation  
12   commission was initiated where the investigated  
13   employee had the right to defend him or herself. I  
14   would like to remind you that it was one contract  
15   subdivided into three receipts. Invoices. Thank  
16   you. And this employee was terminated. The  
17   manager was demoted, and later in order to have a  
18   more encompassing work an auditing was performed of  
19   the whole human resource division. In other words,  
20   there was suspicion. An investigation commission  
21   was created. The commission detected  
22   irregularities. An investigation commission was  
23   initiated. The employee was given the right to  
24   defend him or herself. Unfortunately he did not  
25   have any success and he was terminated, and a

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2 broader investigation was conducted within the  
3 division in order to improve the issue within the  
4 division which was different from the experience  
5 that I had within the communications division.

6 I also had contact with some of these  
7 investigations as an executive manager where these  
8 issues were reported within executive meetings.  
9 Unfortunately what employees were saying at that  
10 time today has been confirmed. When it is at a  
11 lower level of the company, things are done the way  
12 they should be done. When you involve individuals  
13 who have more influence, the rules are not as  
14 strong anymore.

15 Q. Look at the CIA report da Fonseca 7 and  
16 let's go to page 3 of the Portuguese page ending in  
17 Bates 0004. Do you recall testifying on  
18 February 16 that you did not believe that Geovane  
19 de Moraes had been heard as a witness during the  
20 first CIA investigation? Do you remember that?

21 MS. GILMORE: Objection to form. Take  
22 your time to look at this page. I haven't  
23 had a chance to look at it. Counsel, where  
24 is the translation of this in English?

25 MR. COOPER: The English translation is

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2 on 6577.

3 MS. GILMORE: I have this cover page,

4 6577.

5 MR. COOPER: It is the second page, at

6 the top of the second page of actual text.

7 It says on the 15th of December.

8 MS. GILMORE: Okay.

9 A. What are you talking about? This part  
10 here?

11 Q. The question I asked was do you recall  
12 your testimony on February 16 that you did not  
13 believe that Mr. Geovane de Moraes was heard as a  
14 witness in this investigation?

15 A. I do remember.

16 Q. Right, and do you see at the top of the  
17 page I just directed you to, the document says that  
18 on the 15th of December at 10 a.m. the commission  
19 heard Mr. Geovane de Moraes. Do you see that?

20 MS. GILMORE: Objection to form.

21 A. Yes, I do.

22 Q. So does that refresh your recollection  
23 that in fact Mr. de Moraes was interviewed in  
24 connection with this investigation?

25 A. I continue to say and retrace what I

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2 said previously. One, because first, where is the  
3 testimony? The second commission requested the  
4 report and requested Rosenberg, the coordinator for  
5 the second commission, I personally submitted it,  
6 and they refused to submit it to the second  
7 commission who was doing the investigation. I have  
8 never seen the testimony. The commission was  
9 requested to do so, so I have to continue to say  
10 that I do not believe that he has testified.

11 Q. But your basis is for saying that he was  
12 not, that he did not testify the fact that you have  
13 never seen it? Is that correct?

14 MS. GILMORE: Objection to form.

15 A. I didn't say that he didn't testify, I  
16 said that I believe that he has not testified  
17 because I did not see any evidence that he did in  
18 fact testify and the refusal by the first  
19 commission to provide documents regarding the  
20 investigation make no sense to me. Makes no sense  
21 to me. Made, makes. The interpreter heard in the  
22 present tense. But if you have the testimony, I  
23 would like to see it so that I can correct what I  
24 said.

25 Q. My question is but what you have just

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2 said in your previous answer, is that your only  
3 basis for saying that you do not believe that Mr.  
4 Geovane de Moraes testified in connection with the  
5 first CIA?

6 MS. GILMORE: Objection. Asked and  
7 answered. Misstates the testimony.

8 THE INTERPRETER: Can you repeat the  
9 question, please.

10 Q. My question is -- strike that. Is your  
11 only basis for saying that you do not believe that  
12 Mr. Geovane de Moraes testified in connection with  
13 the first CIA what you just said in your previous  
14 answer?

15 MS. GILMORE: Objection, asked and  
16 answered.

17 A. Yes.

18 Q. At what point in this chronology was Mr.  
19 Geovane de Moraes suspended from his position?

20 A. When it was decided, the date I don't  
21 know exactly, but it was when it was decided that a  
22 deeper investigation was required regarding the  
23 issues, his suspension was necessary, so that there  
24 wouldn't be any evidence destruction. What I am  
25 saying here is his suspension from his management

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2 position and access to systems.

3 Q. I am going to hand you what has been  
4 marked as da Fonseca Exhibit 21, and it is a copy  
5 of what I think is a copy of the second CIA report  
6 and you can identify it for me.

7 (da Fonseca Exhibit 21, Second CIA  
8 report, was so marked for identification, as  
9 of this date.)

10 MS. GILMORE: Plaintiffs object to the  
11 translation to the extent they haven't had a  
12 chance to review it and determine its  
13 accuracy.

14 Q. My question is just going to be do you  
15 recognize this as the report of the second internal  
16 investigation commission into the communications  
17 area.

18 MS. GILMORE: I just want to have an  
19 objection that this is not a complete  
20 report, complete document. It says the last  
21 page here is page 31 of 80. I assume.

22 MR. COOPER: This is only the report.  
23 We don't include all the annexes. The  
24 annexes have all the pagination all the way  
25 to the end.



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2 MS. GILMORE: Well, I am looking at a  
3 part that says page 31 of 80, so to me  
4 something is missing.

5 MR. COOPER: You'll see on page 31 you  
6 have the signatures, so it is the report  
7 without the annexes. You see the report  
8 with the conclusion block.

9 MS. GILMORE: Was this produced,  
10 Counsel? I don't see Bates numbers as well.

11 MR. COOPER: Yes.

12 MR. MARTINI: It was produced.

13 MR. COOPER: It is an issue of printing.

14 MR. KEHOE: You can't print them out.  
15 Right? It has been an ongoing problem.

16 MR. COOPER: Can we go off the record.

17 MR. KEHOE: We can deal with that,  
18 Roger, at a later time, but it has been an  
19 ongoing problem.

20 Q. Have you had a chance to read the  
21 document? Is this the report of the internal  
22 investigation commission into Mr. Geovane de Morais  
23 in the communications area downstream in 2009?

24 A. The 31 pages that I see belong to the  
25 report.

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2 Q. Is this the report of the commission  
3 that you authorized?

4 A. It is one part of the commission report.

5 Q. What was your opinion of the work that  
6 this internal investigation commission did?

7 MS. GILMORE: Objection to form.

8 Q. Of the quality of the work.

9 MS. GILMORE: Same objection.

10 A. Considering the circumstances and the  
11 environment as well as the pressure that this  
12 process would cause to all persons involved with  
13 it, I believe it is a good report.

14 Q. Can you go to 3 of the English -- go to  
15 page 3 of the document. The fourth paragraph, in  
16 the fourth paragraph down, the report writes that  
17 or makes reference to the recommendation in the  
18 first internal audit commission to deepen the  
19 examination of documentation related to the  
20 contracting processes performed by I think that is  
21 Mr. de Moraes. Do you see that?

22 MS. GILMORE: Take your time to review  
23 this.

24 A. It is good to read with eyes of  
25 individuals who want to see the real meaning of

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2 what is written. Here it says to deepen the  
3 analysis of the documentation, and since they had  
4 already done a first investigation, documentation,  
5 by documentation, they could also have done.

6 What happened during the process is that  
7 they reduced the scope of what was to be analyzed  
8 or they tried to reduce the scope of what had to be  
9 analyzed. Now if you go to the next paragraph,  
10 what was usual for Petrobras was to repeat the  
11 object of the first commission, my document. My  
12 superior was commanding me to examine the  
13 documentation, but I increased the scope.

14 Besides the documentation, I requested a  
15 verification of the counterparts. The effective  
16 receipt of contractual objects and their respective  
17 payments. Contracting processes do not involve  
18 payments. This was made so that we would veer off  
19 of the investigation between what was forecast and  
20 what was realized, and at that time for that reason  
21 I suffered a lot of pressure.

22 Q. Do you remember that the reason that the  
23 first commission gave for not analyzing or  
24 deepening the examination of the documentation was  
25 because it could not be analyzed within the time

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2 period that it had to complete this work? Do you  
3 remember that?

4 MS. GILMORE: Objection to form.

5 A. I do remember, but I also remember that  
6 they were the ones who established the time frame  
7 and I believe that at least 90 percent of  
8 Petrobras' commissions are postponed.

9 Q. Right, so the first commission was given  
10 ten days to complete its work. Is that right? Do  
11 you remember that?

12 MS. GILMORE: Objection to form.

13 Misstates the testimony.

14 A. The commission and the CEO's cabinet  
15 were the ones who established the time frame. No  
16 one from outside.

17 Q. But do you remember that they were given  
18 ten days to do their work?

19 MS. GILMORE: Objection to form.

20 Misstates the testimony.

21 A. I don't recall.

22 Q. Go to page 7 of the document you have in  
23 front of you, Exhibit 21. Near the bottom of the  
24 page, second to last paragraph, it says "Another  
25 item worthy of note is the price of the contracted

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2 services. The scope of this work did not cover  
3 analysis of the reasonableness of the prices." Do  
4 you see that?

5 MS. GILMORE: Take your time to review  
6 the content.

7 MR. COOPER: She knows she can look at  
8 the document as closely as she wants. We  
9 don't need you to be speaking.

10 Q. My question -- I wanted you to look at  
11 that statement, and my question is do you now  
12 recall, does this refresh your recollection that  
13 the commission did not do an analysis of the prices  
14 and the reasonableness of the prices that were paid  
15 on the ZPQS transactions?

16 MS. GILMORE: Objection to form.  
17 Misstates the document.

18 A. I do recall this specific point  
19 regarding price and contracted service. The  
20 difficulty here is comparison. It is like asking  
21 how much does the set of table and chairs cost, and  
22 the issue here is how much that table nail or chair  
23 nail costs and there are millions of types of  
24 nails. So the option here why do small services  
25 are done? Exactly to prevent this type of

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2     analysis. And the group decided not to do it  
3     because at that time the wrong price for a small  
4     nail would have been enough not to issue that  
5     report. The difference between spent and realized  
6     showed that the set had an inconsistent price  
7     because additional products did not appear in order  
8     to have more payments made. Quite to the contrary,  
9     the products were not found and the commission was  
10    so proactive and really wanted to investigate what  
11    was going on that it provided the investigated  
12    party the chance to show the products, and in no  
13    time during the investigation it said that the  
14    price was correct. So I think that sometimes it is  
15    better to miss the price for the nail than catch  
16    the -- than actually not catch the thief.

17                   MR. MARTINI: For purpose of  
18                   clarification, it is said --

19                   THE INTERPRETER: Nail is usually screw.

20                   MR. MARTINI: Right, on the sentence  
21                   before the last one it is stated and in no  
22                   time during the investigation it said that  
23                   the price was correct. I believe the  
24                   witness said he says that the price was  
25                   correct. At no time he. Just changing it

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2 to he, so we can clarify.

3 MS. GILMORE: Who is the he?

4 THE WITNESS: He, Geovane.

5 THE INTERPRETER: Thank you.

6 Q. The last time when you testified you

7 made reference to an audio recording of Mr.

8 Geovane de Moraes' testimony in connection with the

9 second CIA. Do you remember that testimony?

10 A. Yes.

11 Q. And you testified that you have listened

12 to that testimony. Is that right?

13 A. Correct.

14 Q. When specifically did you first listen

15 to the testimony?

16 A. I don't remember exactly, but it was the

17 time when the facts occurred. Oh, no, maybe it was

18 later when I returned. No, it was at that time.

19 Q. I'm sorry, at which time?

20 A. No, it was the time when the facts

21 happened. 2008, 2009. End of 2008, beginning of

22 2009 or the first half of 2009.

23 Q. Who made the recording available to you?

24 A. One of the individuals who were part of

25 the commission.

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2                   Q.    Which one?

3                   A.    Do I have to answer because at that time  
4    I said that I wouldn't tell anyone that he had  
5    showed it to me.

6                   Q.    I mean yes, you do.  This is  
7    confidential.  This is a transcript under seal with  
8    the court.

9                   A.    It was Franca, a risk manager.  I don't  
10   remember his first name.

11                  Q.    You testified last time that you were  
12   asked why sort of about this testimony and you  
13   testified about your view of why certain  
14   information that you believed was in the recording  
15   was not in the report, and you said that I believe  
16   that the committee thought that this subject was  
17   not part of the auditing scope, but in my opinion  
18   the main reason is fear of retaliation.

19                   My question is did anyone on the  
20   commission ever tell you that their reason for not  
21   including certain information was fear of  
22   retaliation?

23                  A.    They had already gone.  In order for me  
24   to create this commission, I had resorted to  
25   various different individuals, and they all refused



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2   in fear of retaliation. And since this recording  
3   mentioned individuals, politicians, officers, I  
4   believe that that was the reason.

5           Q.   Anything else?

6           A.   No.

7           MR. COOPER: Why don't we take a break  
8   for lunch here?

9           THE VIDEOGRAPHER: The time is 1:25 p.m.

10          (Lunch recess: 1:25 p.m.)

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2 Afternoon Session

3 2:13 p.m.

4 THE VIDEOGRAPHER: This begins tape  
5 number 3. The time is 2:13 p.m. We are  
6 back on the record.

7 VENINA VELOSA da FONSECA, having been previously  
8 duly sworn, was examined and testified further as  
9 follows:

10 EXAMINATION BY MR. DAHAN:

11 Q. Hi, Ms. da Fonseca. My name is Israel  
12 Dahan. I am from the law firm of King & Spalding,  
13 and I represent defendant PricewaterhouseCoopers  
14 Auditores Independentes in this case. I am just  
15 going to ask you a few questions, and then counsel  
16 for Petrobras defendants will continue.

17 Do you have a degree or license in  
18 accounting?

19 A. No.

20 Q. And to make it easy on the court  
21 reporter, I will refer to PricewaterhouseCoopers as  
22 PWC Brazil. Is that okay?

23 A. Okay.

24 Q. During your employment at Petrobras did  
25 you ever work in the financial reporting department

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2   of Petrobras?

3                   MR. KEHOE: Objection, vague.

4                   A.    I worked at Petrobras Singapore for two  
5   years and during that time there was a finance  
6   division at the company. This was between mid 2012  
7   through the end of 2014.

8                   Q.    And that was in Singapore but not  
9   Brazil?

10                  A.    Singapore.

11                  Q.    Did you ever work -- during your time at  
12   Petrobras did you ever work in the internal  
13   auditing department at Petrobras?

14                  A.    No.

15                  Q.    Do you know when PWC Brazil became the  
16   outside auditors for Petrobras?

17                  A.    No.

18                  Q.    Do you have any knowledge of any  
19   communications between PWC Brazil and Petrobras'  
20   internal auditing department?

21                  A.    No.

22                  Q.    Do you have any personal -- did you ever  
23   have any communications with anyone at PWC Brazil  
24   while you were at Petrobras?

25                  A.    If I'm not mistaken, it occurred I think

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2 towards the end of 2013. That is when an external  
3 or outside auditing occurred in Singapore. And at  
4 that time we pointed out a few issues at the  
5 commercial division. The finance officer contacted  
6 PWC to find out how that would be recorded within  
7 the report.

8 Q. Do you know who at PWC Brazil was  
9 contacted?

10 A. I don't recall.

11 MR. DAHAN: I have no further questions.  
12 Thank you.

13 THE VIDEOGRAPHER: The time is 2:18 p.m.  
14 We are off the record.

15 (Recess taken)

16 THE VIDEOGRAPHER: This is the  
17 continuation of tape number 3. The time is  
18 2:19 p.m. We are back on the record.

19 MR. COOPER: Just for the record, so it  
20 is clear, Cleary is now asking questions  
21 again after counsel for  
22 PricewaterhouseCoopers did.

23 EXAMINATION (Continued)

24 BY MR. COOPER:

25 Q. So we are going to mark another exhibit

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2       or actually this one has already been marked. It  
3       was marked during the previous day of your  
4       deposition. It is da Fonseca Exhibit 9. I will  
5       hand a copy of that to you. Let me know when you  
6       have had a chance to look over the document.

7               A.     Okay.

8               Q.     Before we talk about that document, one  
9       question left over from before lunch, you answered  
10      some questions about an audio recording of Mr.  
11      Geovane de Moraes' testimony that he gave in  
12      connection with the second CIA, and you had said  
13      that you listened to that recording. When was the  
14      last time you listened to it?

15              A.     Last year when it was published in  
16      newspapers, but I didn't hear everything.

17              Q.     What do you mean that you didn't hear  
18      everything?

19              A.     I don't have the patience of listening,  
20      for listening to testimony for hours.

21              Q.     What do you mean that the audio was  
22      published in newspapers? Do you mean online or  
23      what do you mean by that?

24              A.     Online.

25              Q.     And so last year, you mean in 2015?

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2 A. '15.

3 Q. Okay. Let's go to this document here.

4 Do you recognize what this document is?

5 A. Yes.

6 Q. Did you prepare the document?

7 A. Yes.

8 Q. Can you explain what it is?

9 A. This document portrays the full history  
10 of the issue that occurred in the communications  
11 division. It mentions the key events. It  
12 demonstrates the termination of the employee on  
13 that date, Geovane, and it states that we are  
14 available to provide assistance to any measures  
15 that would be taken after the creation of this  
16 document.

17 Q. Who was the document prepared for?

18 A. It was prepared to the auditing  
19 division.

20 Q. Did you also provide a copy of this  
21 document to Ms. Graca Foster?

22 A. Correct.

23 Q. Why did you do that?

24 A. Because I was directed to provide it to  
25 areas such as communications, the communications

1                   da Fonseca - Confidential  
2    division, which I didn't think was appropriate to  
3    address the issues here, and officer Paulo Roberto  
4    was the one who was providing me with these orders.  
5    Either from him in person or through his assistant  
6    Francisco Pais, and I contacted Graca because she  
7    was on the same level. She was also an officer and  
8    that she could maybe do something different.

9                   Q.    Do you consider this document to be an  
10   accurate account of the facts that you knew at the  
11   time regarding the Geovane de Morais situation?

12                   MS. GILMORE:  Objection to form.

13                   A.   This document is accurate according to  
14   facts known by members of the commission, because  
15   the commission was the one who provided assistance  
16   in creating this document.  This document, I  
17   created this document and it was based on what was  
18   reported and I believe that it was accurate based  
19   on knowledge from those days or on those days.

20                   Q.    You can set that aside for now.  You  
21   just referred a little while ago to the termination  
22   of Mr. Geovane de Morais in connection with the  
23   CIAs that were conducted.  Is it your understanding  
24   that the conduct that Mr. Geovane de Morais was  
25   discovered to have been engaged in in the

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2 communications area, is it your recollection that  
3 that conduct stopped after it was discovered?

4 MS. GILMORE: Objection to form. The  
5 conduct of Mr. Morais himself or generally?

6 MR. COOPER: I think she can answer.  
7 Are you representing the witness?

8 MR. KEHOE: I want to be able to  
9 understand your question so I can object.

10 MR. COOPER: You can object, but I mean  
11 if you are representing here, you are making  
12 speaking objections on behalf of the  
13 witness.

14 MS. GILMORE: You guys have made those  
15 all along.

16 MR. COOPER: We have a client in this  
17 case and we are protecting the record. She  
18 has a lawyer here today if he wants to  
19 object on her behalf.

20 MS. GILMORE: Objection to form.

21 MR. COOPER: Very good.

22 A. I always think that the best answer is  
23 the one based on facts and information, and at that  
24 time various different measures were taken in order  
25 for this procedure to be halted. Unfortunately, I



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2   left the executive management position without  
3   having a chance to check if these measures were  
4   effective or not. What makes me believe that these  
5   measures might have not been effective is the fact  
6   that Armando Tripodi, who at the time was  
7   president --

8                   MR. MARTINI: Chief of staff.

9                   A. Chief of staff, thank you, of the  
10   cabinet, CEO cabinet, thank you, who was part of  
11   these small contracts that were mentioned either  
12   directly or through relatives, he continued as  
13   chief of staff for the cabinet, and actually in an  
14   absurd or weird manner actually he became executive  
15   manager for the social responsibility projects that  
16   I mentioned previously, and these procedures were  
17   immersed in this whole process of small services.

18                   He continued to work as an executive  
19   manager. It was announced by Petrobras that all  
20   executive managers were going through a process of  
21   conformity review, and he continued as an executive  
22   until the day that he was caught in the first days  
23   of March. And on the coercive arrest, he went to  
24   testify about possible bribes or benefits that he  
25   might have received.

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2 MR. MARTINI: Just to clarify for  
3 purposes of translation, it is coercive  
4 conduct, not necessarily arrested.

5 MR. MATTOS: He was arrested.

6 MR. MARTINI: I am just trying to  
7 clarify.

8 MS. GILMORE: You can clarify.

9 A. What I can say about these processes  
10 that continued or not but occurred between 2008 and  
11 2009 is what the facts demonstrate. Persons that  
12 benefited from that scheme continued within the  
13 company for another six years and now it was  
14 discovered, and what is even more serious working  
15 in the same type of processes that occurred in  
16 2008. That is what I can speak of regarding  
17 continuing or not -- continuation or not of that  
18 scheme.

19 Q. So first, let me break this down.  
20 First, as of the time that you left Brazil or left  
21 your position in the downstream in Brazil in  
22 October 2009, were you aware of any facts that  
23 would indicate, that indicated to you that the  
24 conduct that Geovane de Moraes had been engaged in  
25 had not come to an end?

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2                   A.     Actually, I don't have any evidence that  
3     Geovane continued to be at the forefront of these  
4     procedures. We received a few documents submitted  
5     by officer Paulo Roberto Costa requiring us to  
6     address the issues of the suppliers, which is in  
7     the document charging for payments and also through  
8     newspapers there was a great internal commotion  
9     also reporting against samba groups. That was in  
10    2009 after I left the executive management  
11    position.

12                  Q.     So my question was as of the time up  
13    until October 2009 were you aware of any facts  
14    indicating that the conduct that Geovane de Moraes  
15    had engaged in was continuing, and let's say by  
16    anyone?

17                  MS. GILMORE: Objection. Asked and  
18                   answered.

19                  A.     The answer is yes.

20                  Q.     So it is your --

21                  A.     Not by Geovane.

22                  Q.     So let me make sure I understand. So  
23    you believe that there are facts that you were  
24    aware of before October 2009 that indicated to you  
25    that there were continuing irregularities in the

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2 communications area involving ZPQS payments?

3 A. Yes, and I have evidence as the officer  
4 asking for payment from the main company that was  
5 involved in this scheme. Just a minute. I am  
6 going to tell you here. This report.

7 Q. Which document are you referring to?

8 A. Page 26 of 80. It demonstrates here the  
9 number. That is the one. The number of sequential  
10 invoices issued. In other words, you have a small  
11 contract of small services and you keep issuing  
12 invoices and I pay you. The e-mail that I was  
13 referring to was the one that issued the highest  
14 number of sequential invoices. So for the main  
15 suspicion, they were requesting the payments that  
16 had stopped to be continued.

17 Q. Wasn't it the case that once the  
18 investigation began, that all payments that were in  
19 the system that hadn't yet been paid out to service  
20 providers were suspended?

21 A. Of course. Sure.

22 Q. And do you have evidence that those  
23 payments were then released following the  
24 investigation of Mr. de Moraes?

25 MS. GILMORE: Objection to form.

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2 A. It was not done because I refused to do  
3 it. I suspended all payments, and even knowing  
4 that payments were suspended and officer Paulo  
5 Roberto Costa requested payment to the main company  
6 of invoice issuing.

7 MS. LEVI: Leading.

8 A. Leading invoice-issuing company.

9 MS. GILMORE: Can you clarify that?  
10 Issued to whom?

11 Q. Let me make sure I understand. While  
12 you were still in your position as executive  
13 manager under Paulo Roberto Costa, did you release  
14 those payments?

15 MS. GILMORE: Objection to form.

16 A. I did not release those payments, but I  
17 do not know what was done afterwards.

18 Q. Are you aware of any facts showing that  
19 anyone else released the payments that you are  
20 describing while you were still the executive  
21 manager of downstream?

22 MS. GILMORE: Objection to form.

23 A. I do not have facts related directly to  
24 that occurrence, but you cannot close your eyes  
25 related to what I mentioned regarding Armando

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2 Tripodi. Where does the bribery -- where do the  
3 bribes that he received come from?

4 Q. What bribes are you referring to in the  
5 answer you just gave?

6 A. He was caught. He is in jail because he  
7 received bribes inappropriately. He works in the  
8 social responsibility division that at the time was  
9 under the responsibility of the communications  
10 management division. These are the facts as I  
11 know.

12 Q. Prior to the Lava Jato investigation and  
13 Mr. Costa's testimony in particular, were you aware  
14 of any facts showing that Mr. Tripodi received  
15 bribes?

16 MS. GILMORE: Objection to form.

17 A. What we saw before the Lava Jato  
18 investigation, according to this 2008 report, is  
19 that a member of his family received various  
20 different payments. And it must be in the  
21 attachment that should have been part of this  
22 report, because a spreadsheet was created, and  
23 there there was this financing of Trioelétrico,  
24 which is part of a group.

25 THE INTERPRETER: Parentheses by the

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2 interpreter, a carnival group.

3 MR. KEHOE: We reiterate our request for  
4 the annexes to all CIAs in a form that we  
5 can print.

6 MR. COOPER: Okay. We produced them to  
7 you. I think we are working on a process  
8 for identifying where they are, but it is  
9 our view that you have them and you have had  
10 them for a long time. Since October.

11 MR. KEHOE: We dispute that, but in any  
12 event.

13 Q. So are you saying, I just want to  
14 understand your testimony, are you saying in  
15 response to my question, that back in 2008 you  
16 believed that Mr. Tripodi and his family had  
17 received bribe payments?

18 A. What I am saying is that back in 2008  
19 various different payments were made to a member of  
20 his family. Not all counterparts could be  
21 approved.

22 MR. MARTINI: Could be verified.

23 THE INTERPRETER: Proved.

24 A. That is what I am saying.

25 Q. And in 2008 when you observed this

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2       information, did you believe that this was evidence  
3       of bribery payments being made?

4                   MS. GILMORE:   Objection to form.   Asked  
5                   and answered.

6                   A.     I left in 2009.   This liability left by  
7       the communications division was only dealt with two  
8       or three months later.   I spoke with the different  
9       areas of Petrobras that were responsible to  
10      investigate persons and companies that were part of  
11      the scheme.   In other words, the legal department  
12      and the auditing department were both aware of what  
13      had happened.

14                  With the tools that the executive  
15      management had, we had no way of providing evidence  
16      of that, but I believe discretion should be  
17      directed to the auditing department, because if  
18      there was anything, it is going to be demonstrated.

19                  Q.     Let me mark as Exhibit 22, da Fonseca  
20      Exhibit 22, which is a transcript of testimony that  
21      you gave.

22                  (da Fonseca Exhibit 22, Transcript, was  
23                  so marked for identification, as of this  
24                  date.)

25                  Q.     The Portuguese is in the back.   This is



1                   da Fonseca - Confidential  
2       testimony that you gave in a criminal action  
3       5083376-05.

4                   MS. GILMORE:  Objection here.  It  
5       doesn't appear to be the whole document.

6                   MR. COOPER:  It is the segment, partial  
7       translation.

8                   MS. GILMORE:  I object to it, the fact  
9       that it doesn't appear to be a whole  
10      document.

11                  MR. KEHOE:  We had agreed that we would  
12      be providing full English translations or at  
13      least meeting and conferring by 4 p.m. the  
14      business day in advance to give an  
15      indication so opposing counsel would be able  
16      to look at this document and understand if  
17      there were questions opposing counsel would  
18      like to ask, so if this is an incomplete  
19      document and there are additional pages that  
20      we don't have an English version of, we  
21      object to its use.

22                  MS. CURRIE:  The only part that isn't  
23      translated.

24                  MR. KEHOE:  I am looking at page 18.  It  
25      looks like there is more going on here.  If

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2 there is, I object to the fact that --

3 MS. CURRIE: It is another witness.

4 MR. KEHOE: Okay.

5 MR. MARTINI: You can check in the  
6 Portuguese version, the name of the other  
7 witness is written.

8 MR. KEHOE: I appreciate that  
9 clarification.

10 Q. I am just going to find the Portuguese  
11 page to direct you to. It is page 5.

12 MS. GILMORE: Where is page 5?

13 MR. COOPER: You have to count them. If  
14 you go to page 5 of the English, it is at  
15 the bottom, and there is a question by the  
16 federal Attorney General's Office.

17 Q. Let me read the question and then you  
18 can see if you can find it.

19 MS. GILMORE: Counsel is asking the  
20 deponent a specific question on a document  
21 that spans several pages that she has not  
22 had a chance to review.

23 MR. COOPER: It is enough speaking  
24 objections. You are not representing this  
25 witness.

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2 MS. GILMORE: It is my objection, it is  
3 going to stay on the record.

4 Q. So the question to you from the federal  
5 Attorney General's Office was during that time that  
6 you worked there, and if you look up, he is  
7 referring to the time you worked under Paulo  
8 Roberto Costa did you learn of any undue advantage  
9 to any director to any employee of Petrobras and  
10 your answer was no. Was that an accurate -- was  
11 that accurate testimony?

12 MS. GILMORE: Objection to form.

13 A. Yes.

14 Q. So when I asked you if in 2008, 2009 did  
15 you learn of any facts showing that Mr. Tripodi had  
16 received bribe payments, is the answer no?

17 MS. GILMORE: Objection to form.

18 A. No. What I said is that we checked the  
19 inconsistencies. We submitted the documentation to  
20 the area in charge, which in that case would be the  
21 auditing division and legal department. The  
22 documentation so that they could review all the  
23 benefits that both companies and individuals  
24 received. That was my answer. There is no  
25 contradiction.

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2 Q. Did you believe at the time in 2008 and  
3 2009 that based on that information, Mr. Tripodi  
4 had received bribes?

5 MS. GILMORE: Objection to form. Asked  
6 and answered.

7 A. I came here to provide testimony about  
8 facts, documents and data. I'm not here to provide  
9 an opinion.

10 Q. You provided many opinions here today.  
11 My question is did this information that you have  
12 described cause you to learn in 2008 or 2009 that  
13 Mr. Tripodi had received bribes?

14 MS. GILMORE: Objection to form. Asked  
15 and answered.

16 A. I already answered. I didn't have  
17 tools, as I mentioned before, to prove that the  
18 absence of products and the overpricing. This  
19 should have been done by Petrobras through their  
20 auditing and legal departments, and I'm not aware  
21 if that was done or not.

22 MS. LEVI: She actually said I didn't  
23 have the tools to prove that the product and  
24 overpricing transformed into bribes.

25 THE INTERPRETER: Thank you very much.

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2 The interpreter will stand corrected.

3 Q. And did you have any discussions with  
4 anyone at Petrobras during this time period about  
5 the information you have described with respect to  
6 Mr. Tripodi? That is a yes or no question. I just  
7 want to know.

8 A. I am going to answer the way that I find  
9 more appropriate. I submitted a document  
10 containing this report plus the attachments where  
11 this information was described to all divisions'  
12 executive managers, and this document subsequently  
13 was also submitted to Paulo Roberto Costa, the  
14 auditing department and the legal department.

15 Q. When you say that you submitted a  
16 document containing this report, can you just be  
17 more specific, what document you are referring to?

18 A. Petrobras internal document. It is an  
19 internal official document.

20 Q. Is it the document we looked at a little  
21 while ago?

22 A. No. It is a different document before  
23 that one.

24 Q. Okay. I'm sorry if I misunderstood.  
25 Did you attach to this document the CIA reports and

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2 the annexes? Is that what you are describing?

3 A. And the spreadsheet containing all the  
4 illegal contracts that were made.

5 Q. And was that spreadsheet one of the  
6 annexes to the second CIA?

7 A. Yes.

8 Q. So it is included among the annexes to  
9 the CIA?

10 A. Yes.

11 Q. In the DIP that you just described by  
12 which you submitted these documents, did you write  
13 in that document -- strike that. In the DIP that  
14 you just described did you use the word "bribe"?

15 MS. GILMORE: Objection to form.

16 A. In all the documents that I wrote, I  
17 wrote the words that I could demonstrate through  
18 data, facts and documentation. I did everything  
19 that I could do under the limits of my position.  
20 Petrobras works in this way. Executive management  
21 and officers rely on divisions such as the legal  
22 department and the auditing department, and as a  
23 matter of fact, the auditing department is directly  
24 under the board of directors, and the legal  
25 department executive manager reports directly to

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2 the company's CEO.

3 At that time it wasn't my role to define  
4 bribe in my document. My role at that time was to  
5 convey all the information necessary for a serious  
6 and correct company who has responsibilities  
7 towards its employees and stakeholders needed in  
8 order to take the appropriate measures.

9 Q. So was the answer no, that the document  
10 you prepared did not use the word "bribe"?

11 MS. GILMORE: Objection to form. Asked  
12 and answered.

13 A. I already answered your question.

14 Q. My question was did the DIP that you  
15 described by which you submitted the CIAs to audit  
16 and legal, did it use the word "bribe"? Did it or  
17 did it not?

18 MS. GILMORE: Objection to form. Asked  
19 and answered.

20 You can answer any way you wish.

21 MR. COOPER: Stop the speaking  
22 objections. It is not even your client.

23 MS. GILMORE: The objection stands.

24 A. I already answered your question.

25 Q. Are you able to answer it yes or no?

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2 MS. GILMORE: Objection to form. Asked  
3 and answered.

4 A. Is there a predefined formatting for my  
5 questions to be answered here?

6 Q. The question is simple. Does it include  
7 a word or not, and I am asking you do you remember  
8 if a particular word was in the report or not?

9 MS. GILMORE: Objection to form. Asked  
10 and answered.

11 MR. COOPER: Stop it. It is not.

12 A. I am going to go back on the text and  
13 reread my answer. My answer continues being the  
14 same.

15 MR. COOPER: All right. Well, the  
16 record will show the witness refuses to  
17 answer my question and we will move on.

18 MS. GILMORE: Objection to form and to  
19 the commentary.

20 THE VIDEOGRAPHER: The time is 3:02 p.m.  
21 We are off the record.

22 (Recess taken)

23 THE VIDEOGRAPHER: This begins tape  
24 number 4. The time is 3:20 p.m. We are  
25 back on the record.



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2 BY MR. COOPER:

3 Q. I am going to show you another document,  
4 and this document was also previously marked at  
5 your deposition, the first deposition day in  
6 February. It was previously marked as da Fonseca  
7 Exhibit 11. We are now moving on to some questions  
8 about the RNEST refinery project. I believe that  
9 you testified previously about this document. I  
10 believe this was a presentation for either the  
11 executive board or the board of directors of  
12 Petrobras or both, but can you just explain what  
13 this document is.

14 A. It shows the history and the current  
15 situation of the refinery economic evaluation, what  
16 influenced the price escalation, what was done to  
17 minimize it and the forecast at that time for the  
18 project's result and what is going to happen when  
19 the project is ready regarding ROI.

20 Q. Who, if you know, drafted this document?

21 A. Usually these documents are written by  
22 more than one management or more than one hand.  
23 The planning manager's coordination and the  
24 portfolio division is responsible for the  
25 calculation of the economic evaluation or return,

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2 reminding you that the portfolio division works  
3 based on Petrobras' promises and with costs  
4 provided by the engineering department, taxes  
5 coming from the tax division, so the main  
6 responsibility in that case is the consolidation of  
7 information or data.

8 Q. And what role, if any, did you  
9 individually play or have, if any, in the  
10 preparation of this document?

11 A. I am in charge if this presentation is  
12 according to what was requested or what is  
13 necessary to demonstrate. I was not involved in  
14 the direct calculation of what is contained as no  
15 executive does that.

16 Q. Did you review the contents of this  
17 document before it was finalized?

18 A. The CEO's cabinet was the one who  
19 revised the presentations that went to the  
20 officers, and the officer himself would review  
21 anything that went to the board of directors.

22 MR. MARTINI: May we just clarify if it  
23 is stated the CEO's cabinet or the officer  
24 cabinet in general? I believe I heard  
25 the --

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2 THE INTERPRETER: The officers cabinet.

3 Thank you. The interpreter had heard but

4 okay. The interpreter will stand corrected.

5 Q. And did you approve of the contents of  
6 this document?

7 A. I approved the formatting and the  
8 validation of what was purporting to demonstrate.  
9 I'm not involved on calculations themselves. For  
10 that you have either managers or their general  
11 manager.

12 Q. I am going to hand you the transcript of  
13 your deposition on February 16.

14 MS. GILMORE: Are you entering this as  
15 an exhibit?

16 MR. COOPER: I don't think we need to as  
17 an exhibit.

18 MS. GILMORE: Fine.

19 MR. COOPER: I think it is part of the  
20 same transcript.

21 A. Do you have it in Portuguese?

22 Q. The transcript was only taken in  
23 English. If you could turn to page 106.

24 MS. GILMORE: I object to the fact that  
25 you are questioning the witness who speaks

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2 Portuguese and has been testifying in  
3 Portuguese on a document that you only have  
4 an English version of.

5 MR. COOPER: It is the only transcript  
6 we have of her testimony. It will be  
7 translated into Portuguese by the  
8 interpreter.

9 Q. Page 106 and page 107, I direct you to  
10 line 15 on page 106, and Ms. Gilmore asked you,  
11 "You testified that you made a presentation to the  
12 board of directors of Petrobras in about July 2009.  
13 Is that correct?" You answered yes. "Do you  
14 recall what day in 2009 you made that  
15 presentation?" You said "It was in July, but the  
16 exact date I don't remember." And then she, Ms.  
17 Gilmore, introduced Exhibit 11, which is the  
18 document you have in front of you, and she asked  
19 you --

20 A. It is not this one.

21 Q. "Ms. da Fonseca, is that the  
22 presentation you say was presented to the board in  
23 July 2009," and you said yes.

24 A. It is not this presentation, is it?

25 Q. You testified --

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2 A. I did this in July 2009, but I did the  
3 other one in July 2009. It is not this one.

4 Q. Do you see it says Exhibit 11? This is  
5 the document that you were shown when Ms. Gilmore  
6 questioned you on February 16.

7 A. I'm not sure because I think that she  
8 present me another one. The one that is about the  
9 contracts.

10 Q. I don't believe so. Then you go on, and  
11 I will show you.

12 MS. GILMORE: Maybe you can look at the  
13 document and see.

14 Q. It is stamped. Then she goes on, "Does  
15 this presentation show the lack of economic  
16 viability of the RNEST project at the time," and  
17 you said yes. Then the question was "Can you tell  
18 me where in the presentation you see that," and you  
19 referred her to page 17 of this document.

20 A. Yes. I think it is. Yes.

21 Q. So this is, Exhibit 11 is the  
22 presentation that you testified on February 16 that  
23 you presented to the board of directors of  
24 Petrobras. Is that right?

25 A. Yes.

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2 Q. Can you turn to slide 5 in Exhibit 11.

3 My question is if you can just explain generally  
4 what this slide is showing.

5 A. It shows that the project and its  
6 various different phases increased drastically the  
7 investment, and then you have the various different  
8 technical variables here. For example, the heating  
9 of the market which is a worldwide indicator,  
10 exchange rate adjustments, changes in scope, so it  
11 shows the impact on investments for all of these  
12 variables.

13 Q. When you said that the various different  
14 technical variables, am I right, is it fair to say  
15 that you mean that each of these factors that you  
16 mentioned some examples between the revision of  
17 FEL2 on the left and estimate actual 609 on the  
18 right, that the factors that are listed there are  
19 the factors that contributed to the increase in  
20 cost?

21 A. Yes.

22 Q. What does scope change mean?

23 A. In that case you can add more equipment,  
24 let's say we decide to add five compressors. In  
25 order to reduce the investment, we decide instead

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2     to put three compressors. For example, here we  
3     have two sulfur units that was included due to  
4     environmental requirements which was not forecasted  
5     within the initial proposal, so in other words, you  
6     have the initial proposal and then you have added  
7     equipment or investments that will impact the  
8     investment's final results.

9                Q.     What does adjustment change mean? The  
10    translation is wrong. It should be adjustment  
11    exchange.

12           A.     Which one are you talking about?

13           Q.     Beginning with scope change. It is the  
14    third over.

15           A.     Exchange adjustment.

16                   THE INTERPRETER: Interpreter remembers  
17    saying exchange adjustments.

18           A.     Because you have the initial exchange  
19    when in the beginning of the proposal so you  
20    calculate the project based on that exchange rate  
21    when you have the contract, the amount changes.  
22    That happens frequently.

23           Q.     And what about the next one, tax  
24    variable gain? It is the next one over.

25           A.     Management.

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2 MR. MARTINI: The next one.

3 A. Profit fee variation? Profit rate  
4 variation. Thank you. I don't have the colors  
5 here. I'm not sure if it is red or green. I'm not  
6 sure if it is going up or down. We have more than  
7 one denomination of the gains of the contracted  
8 party who will execute the project.

9 Q. Can you turn to slide 15. Can you  
10 describe what this slide shows.

11 A. Variations on the initial proposal for  
12 the refinery. What happens is that, for example,  
13 we had production curve for the E&P with the Merlin  
14 type oil which was heavy **Commercially Sensitive**

20 Changes in regulations, so it changed  
21 the quality of refined products of the diesel  
22 quality. So you see here that there is a change  
23 from 50 ppms to 10 ppms, so there is a variation in  
24 the scope of these two units of removal of sulfur  
25 for this oil. That is what this slide means.



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2 Q. Can you turn to slide 22. What is the  
3 purpose of this slide?

4 A. There were various different initiatives  
5 to reduce the investment throughout the whole  
6 process. For example, in this first proposal it is  
7 proposed here that PDVSA would not be one of the  
8 partners. The adopted model for partnership with  
9 PDVSA and the relationship with PDVSA, this  
10 relationship that was made by the officer and by  
11 the CEO is that they would come up with **Commercially Sensitive**

In other  
14 words, they would come up with an aggregated amount  
15 that was smaller to the aggregated that they would  
16 get from the products.

17 The second proposal refers to the  
18 partnership model. The partnership model was  
19 coordinated by the finance department, and I'm not  
20 sure that if what I just mentioned here of giving  
21 less than the product gotten was impacting the loan  
22 with BNDES. I don't remember at this point.

23 Third, which was **Commercially Sensitive**

, and actually they are saying the  
25 following. In order for Petrobras not to have any

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2 **Commercially Sensitive**

that was not  
4 committed. And the last one is every and all tax  
5 incentives are welcome.

6 Q. Did you personally present, make this  
7 presentation?

8 A. No.

9 Q. Do you know who made the presentation?

10 A. Usually and I think it was the portfolio  
11 division's manager or the division's general  
12 manager.

13 Q. Okay. You can set that document aside.  
14 I want to ask you a few questions about Mr.  
15 Fernando de Castro Sa, who you testified previously  
16 about on February 16. You were asked by Ms.  
17 Gilmore when you learned of the existence of the  
18 cartel, that was language that she used, and you  
19 said that Fernando Sa found about the cartel in  
20 mid 2009 and that was when you found out about it  
21 from him.

22 I want to understand specifically what  
23 Mr. Sa told you, so when do you recall first  
24 discussing what you have referred to as the cartel  
25 with Mr. Sa?

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2 A. It was during the first half of,  
3 actually first half of 2009. This is when we  
4 discussed about the cartel more specifically.

5 Q. Did Mr. Sa refer to what he was talking  
6 about as a cartel? Did he use that word?

7 A. Yes, he did.

8 Q. What specifically did he tell you that  
9 in his view made what he was describing a cartel?

10 A. At that time he was working at the legal  
11 department and individuals from Petrobras' legal  
12 department were meeting with the cartel's  
13 attorneys, addressing specific provisions that  
14 could possibly benefit providers, suppliers, not  
15 providers, to the detriment of Petrobras.

16 Q. Okay. What did he tell you? What do  
17 you specifically remember him telling you about  
18 these meetings that you just referenced?

19 A. Venina, can you see this document right  
20 here? This is a meeting transcript signed by the  
21 Petrobras lawyers and the lawyers for the cartel.  
22 Do you see here that they are addressing provisions  
23 that go against Petrobras? Do you see here in the  
24 meeting's transcription.

25 MS. LEVI: The witness said amendment

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2 provisions.

3 THE INTERPRETER: Thank you.

4 MR. MARTINI: Meeting minutes.

5 MS. LEVI: Yes.

6 A. Besides this document, there are various  
7 different document references regarding this  
8 matter. I am going to bring the matter to my  
9 executive manager. I'm not going to be watching  
10 all of these things with my eyes closed. I am  
11 going to do this today.

12 Q. And you remember him using the word  
13 "cartel," not "Abemi"?

14 A. I don't remember because to me it meant  
15 the same thing, so right now I wouldn't be able to  
16 remember.

17 Q. So you are not sure sitting here today  
18 whether he used the word "Abemi" or "cartel," is  
19 that right?

20 MR. KEHOE: Objection to form.

21 A. I am saying that he could have used the  
22 word "Abemi" or "cartel." What I am saying is  
23 these two words were not different one from the  
24 other. Within the context they meant the same  
25 thing. I think what is most important is what

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2    happened later, which is he did investigate and he  
3    was able to provide evidence for the cartel's  
4    existence back in 2009.

5               Q.    You said that he showed you, put a  
6    document in front of you. Did you review that  
7    document?

8               A.    Yes.

9               Q.    What do you remember about the content  
10   of the document?

11              A.    What I just said.

12              Q.    Well, your testimony was that it was a  
13   meeting transcript signed by the Petrobras lawyers  
14   and the lawyers for the cartel and then you said he  
15   said do you see here that they are addressing  
16   provisions that go against Petrobras. What  
17   provisions were identified in the document that you  
18   reviewed?

19              A.    He spoke of contractual provisions in a  
20   general manner.

21              Q.    But do you remember from reviewing the  
22   document that you said you looked at what  
23   provisions were described in the document that he  
24   showed you?

25              A.    What I remember is that these were

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2 provisions that gave more opening to contractual  
3 amendments.

4 Q. But do you remember anything more  
5 specific about these provisions you are referring  
6 to?

7 MS. GILMORE: Objection to form.

8 A. No, I don't remember.

9 Q. Do you remember how these provisions in  
10 your view gave more opening to contractual  
11 amendments?

12 A. What happens is that at that time I had  
13 extensive discussions about the contractual models  
14 adopted by Petrobras because it was a contractual  
15 model that allowed for amendment claims. Planning  
16 was very superficial. Contractors, planning was  
17 very superficial; and since there were hundreds of  
18 companies contracted on the same site, planning  
19 would require details enough to prevent amendments  
20 such as the non-postponable items I just mentioned  
21 before.

22 Q. So I understand you are saying that in  
23 your view, this sort of new contractual model may  
24 have produced certain results but that was not  
25 adopted and the provisions that Abemi was talking

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2 about were not the provisions of this new  
3 contractual model. But apart from that, is there  
4 anything specific that you remember about the  
5 provisions being discussed in the document Mr. Sa  
6 had about Abemi that would give rise to amendments?

7 A. Because since he was a law expert and he  
8 had also been trained internationally, he noticed  
9 that the way in which the contracts were written  
10 was giving space for contracting companies to have  
11 claims.

12 Q. So is that something that he told you?

13 A. Yes, he did tell me that.

14 Q. Okay. Setting aside what he told you, I  
15 just want to understand what you remember from  
16 reviewing the document that he showed you about the  
17 contractual provisions that you have claimed the  
18 document showed Abemi members were negotiating with  
19 Petrobras. Do you remember anything specific to  
20 those provisions that are the basis for your view  
21 that they gave rise to amendments?

22 A. I am going to answer for the fourth  
23 time. If you read builder contracts, you know that  
24 they are very specific. When it comes to  
25 construction, the language in my opinion is very

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2     difficult, and also there is the legal aspect. In  
3     other words, the way you play with words, in order  
4     to get assistance to understand confusing  
5     provisions or contracts, I always would ask for an  
6     attorney's assistance and I suggest you do the  
7     same.

8                 Q.     So am I correct then that your answer  
9     with respect to the document Mr. Sa showed you is  
10    that you do not recall what about the provisions?

11                A.     No, no, no. I told you exactly what he  
12    told me, and that was your question, and then you  
13    asked me in what way the provisions had been  
14    changed, and I told you that the provisions with  
15    the language was being changed in order to enable  
16    amendments claims, and at that time there was just  
17    a suspicion, and that led him to create a document  
18    to prove that what he was saying was correct.

19                That is what he did. He did prove that  
20    there was a cartel and that provisions were being  
21    changed in order to enable the claims, enable  
22    claims of amendments and what he received after the  
23    conclusion of this brilliant work was an invitation  
24    to leave the legal department. If you look at this  
25    today, what you see is we do not want to lose the



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2       opportunity for making these billions of dollars  
3       get out of here. He was locked inside an office.  
4       From this office, he ended up being admitted to the  
5       hospital because he had two heart attacks, and  
6       today he is doing better, and I recommend you ask  
7       for his testimony so that he can provide you  
8       information about the beginning of the cartel. He  
9       is the only person who was present during all of  
10      this in 2008-2009.

11                   MR. MARTINI: Witnessed.

12                  A. And for sure you will be able to answer  
13      your questions about all the details pertaining to  
14      the provisions.

15                   MR. COOPER: I strike as non-responsive.

16                   MS. GILMORE: It is responsive.

17                  Q. I want to address what you remember Mr.  
18      Sa telling you and what you remember about the  
19      documents, if you reviewed more than one, that you  
20      reviewed that he provided to you. I want you to  
21      set aside everything that he told you and what I am  
22      asking you is do you have a recollection sitting  
23      here today of what you read in the document he gave  
24      you, if anything, that leads you to believe that  
25      there were provisions being negotiated by Abemi and

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2 the company that enabled amendment claims?

3 MS. GILMORE: Objection to form.

4 A. I recommend that the minutes that he  
5 showed me be brought to the session. Do you have  
6 them?

7 Q. We don't have them here. I am asking  
8 you what you recall about it sitting here today.

9 A. I already answered it.

10 Q. Is there anything that you recall that  
11 you haven't already told me --

12 A. No.

13 Q. -- about the document Mr. Sa provided  
14 you?

15 A. No, this is information that he gathered  
16 to provide evidence of the cartel's existence that  
17 was provided to the executive manager. They  
18 created a commission to investigate Fernando Sa and  
19 the commission's report was not provided to him  
20 when he was suspended. He resorted to the Supreme  
21 Court in order to have access to this report and  
22 the final report deleted testimony of key  
23 individuals. That I hadn't mentioned before.

24 Q. So what is the basis for your belief  
25 that Mr. Sa was investigated?

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2                   A.    After they found out, they wanted to  
3    terminate Fernando and they created this commission  
4    in order to try and do so.

5                   Q.    How do you know that?

6                   A.    You asked me about the basis in which I  
7    believed, correct?  If you think that a renowned  
8    attorney that is very knowledgeable about all the  
9    steps of the process with the best work evaluations  
10   by Petrobras.

11                  MS. LEVI:  Performance evaluations.

12                  THE INTERPRETER:  Okay.  It was work  
13                  evaluations.

14                  A.    And he was the most qualified  
15   professional in the whole legal department and then  
16   this attorney files a report.  The same attorney is  
17   invited to write a report in order to provide  
18   evidence of what he was saying.  At the moment when  
19   he delivers that report, the report was not  
20   questioned, and immediately a commission was  
21   created to evaluate his performance, and the  
22   subject was exactly opening of amendments for  
23   Petrobras' contracts.

24                  I would expect to be complimented in  
25   writing and not an investigation.  I cannot imagine

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2 the reason why except to terminate, and this is a  
3 practice of the company, and when I came back to  
4 work, they also formed a commission to terminate me  
5 and I didn't even have time to say hi, how are you.  
6 The person who suspended me was the same person  
7 that I suspended from the HR department when I  
8 found out that they were not working appropriately.  
9 That is the way they work.

10 Q. So what you have just described with  
11 respect to Mr. Sa, were you personally involved in  
12 the events that you just described?

13 A. I was involved, because the whole legal  
14 department was involved. Various different  
15 managers that were under me were invited to provide  
16 testimony during the process, the procedures. It  
17 was impossible for me not to be involved.

18 Q. And again I want to go back to my  
19 question. So why do you believe that there was an  
20 investigation of Mr. Sa's conduct? Strike that.  
21 On what basis do you believe that there was an  
22 investigation undertaken into Mr. Sa's conduct?

23 A. I have already answered that question.

24 Q. Have you ever seen a copy of the report?

25 A. If I saw a copy of which report?

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2 Q. The report that resulted from the  
3 investigation that you believe happened.

4 A. Yes, I have seen it, yes.

5 Q. When did you see it?

6 A. I think it was last year. It was shown  
7 to me by the retired attorney who was able to  
8 request that.

9 Q. So you are not aware then that the only  
10 investigation that was carried out with respect to  
11 Mr. Sa was into the Abemi obligations that he  
12 presented to Mr. Nilton Maia, is that right?

13 MS. GILMORE: Objection to form.

14 A. No.

15 MR. MARTINI: Allegations.

16 A. This investigation was specifically  
17 about him, but he was invited to provide testimony  
18 on different procedures.

19 Q. But your testimony remains that Mr. Sa  
20 was investigated and that you have actually seen  
21 the report from that investigation?

22 A. Correct.

23 Q. Okay. Look back at the transcript of  
24 your testimony from February 16. Do you have that  
25 in front of you? On page 67 near the bottom, Ms.

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2 Gilmore asked you a question about if you recall  
3 certain suppliers being members of a cartel and you  
4 replied no, a cartel is a group of companies that  
5 agree on a certain fixed price for a type of  
6 service.

7 MS. GILMORE: Objection to form and the  
8 fact that the witness should be reading for  
9 content. I don't know where this is coming  
10 from.

11 MR. COOPER: No more speaking  
12 objections.

13 A. What is your question?

14 Q. First, do you want to translate back?

15 THE INTERPRETER: Translate back --

16 MR. COOPER: I just read her testimony.  
17 Do we need to translate it or not?

18 A. No.

19 Q. Do you remember giving that testimony?

20 A. Yes.

21 Q. Did Mr. Sa describe to you any facts  
22 suggesting that were part of Abemi were agreeing on  
23 a certain fixed price for a type of service?

24 A. I have this information. You want me to  
25 speak about what I knew in 2008 and 2009 or now?

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2 Q. In 2008 and 2009.

3 A. If he said that that group of companies  
4 was a cartel that fixed a price for a certain  
5 service, correct.

6 Q. So I am asking you, using your  
7 definition, I will state it differently then. What  
8 did Mr. Sa describe to you about the companies in  
9 Abemi that showed that they were agreeing on a  
10 certain fixed price for a type of service?

11 A. What happens is that as biddings were  
12 happening and where as bidding results became  
13 visible to everyone and sometimes these biddings  
14 were halted and new biddings were initiated, and so  
15 it was clear on the spreadsheet that these set of  
16 biddings were agreed upon. Why? We would discuss.  
17 The first on bidding 1, the first, the second or  
18 the third, and when we would have a new bidding,  
19 they would give a 5 percent discount on each  
20 proposal and continue with the first, the second  
21 and the third.

22 This happened on various different  
23 biddings. I referred to this document on my last  
24 deposition. It is clear evidence that the cartel  
25 was agreeing on the price.

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2 So the issue of agreement of prices by  
3 the cartel was not only information provided by  
4 Fernando, there were evidences that we would detect  
5 as the project was being implemented.

6 Q. What you just described to me, that is  
7 information that you were aware of in 2008 and  
8 2009?

9 A. No, not on the same totality, because at  
10 that time there were few contracts so there were  
11 not as many evidences as there were after this  
12 report was completed.

13 Q. When did you become aware of the  
14 information that you just described to me in the  
15 previous answer?

16 A. It might have been last year.

17 Q. And you referred to a spreadsheet. What  
18 document is that that you are referring to?

19 A. It is the report that I referred to  
20 during the auditing, but the manager in my division  
21 who would follow up the project, and he would  
22 always submit for the officer's information, and he  
23 would copy me as well who was the first, the second  
24 and the third.

25 MR. MARTINI: Clarifying for the record,



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2                   officers not in the plural. Officer's  
3                   information. I think the witness said it  
4                   would be forwarded to the director, so  
5                   officer's as the possessive.

6                   Q. With respect to what you just described  
7                   about a cartel fixing prices, is there anything  
8                   that Mr. Sa told you that would lead you to believe  
9                   that there was a price fixing cartel? And this is  
10                  back in 2008 and 2009.

11                  A. I don't remember.

12                  Q. Can you look at page 101 in your  
13                  transcript. Actually page 100. Actually strike  
14                  that. You can set that aside.

15                  MR. COOPER: Let's mark a different  
16                  document. We are going to mark as Exhibit  
17                  23 a document Bates stamped PBRCG 01227093  
18                  through 098.

19                  (da Fonseca Exhibit 23, Document bearing  
20                  Bates numbers PBRCG 01227093 through 098,  
21                  was so marked for identification, as of this  
22                  date.)

23                  MS. GILMORE: Plaintiffs object to the  
24                  translation.

25                  Q. Do you recognize what this document is?

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2 A. Why isn't it signed?

3 MS. GILMORE: There is an exhibit here.

4 MR. COOPER: What we extracted doesn't  
5 have a signature.

6 A. We always sign each and every document.

7 MS. GILMORE: Counsel, is there an  
8 exhibit to this? It shows there is an  
9 exhibit. Have you produced it? Is this the  
10 exhibit?

11 MR. MARTINI: Yes.

12 Q. In the system it is signed. It is just  
13 when you print it out.

14 A. I cannot state if the document is  
15 correct or not. In order for me to recognize the  
16 document, I need my signature in it.

17 Q. Okay.

18 MS. GILMORE: Let the record reflect  
19 that the document that has been introduced  
20 is not signed.

21 MR. COOPER: Duly noted.

22 Q. Do you recognize what this is?

23 A. It is a Petrobras internal document for  
24 downstream, for the downstream in-service officer  
25 in order to hire or contract the power house.

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2 Q. Right, and this is for the bidding  
3 process for the power house that you testified  
4 about previously, correct?

5 A. If it is about this document, I don't  
6 know, but the hiring of the power house is part of  
7 Petrobras' procedures.

8 Q. Is this a document that is necessary in  
9 order to get executive board approval to go forward  
10 with a bidding on certain contracts including one  
11 like the power house?

12 A. Correct.

13 Q. Were documents like this one documents  
14 that you regularly were involved in preparing for  
15 the executive board?

16 A. What happens with these documents that  
17 are sent to officers that every budgeting for every  
18 project, be it a refinery or a small construction  
19 project within a refinery, this is under the  
20 responsibility of the business division, and that  
21 is what happened in this case. But the whole  
22 bidding process was under the engineering  
23 department's responsibility. How can you with a  
24 document such as this one in hand ask you? You  
25 have responsibility over this bidding because you

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2       signed the document in case you had signed it. We  
3       have this sharing of responsibilities within the  
4       basic flow chart for the company.

5                   Item 11 contains my area, my division  
6       was responsible to provide information. If there  
7       is or not budgeting concessions, but if you see  
8       item 12, which is the conclusion, it says that each  
9       division is responsible for the information  
10      regarding their area of operation. This was one of  
11      the first, if not the first contracted project of a  
12      large size, because as it matured and as projects  
13      were approved, when we started to calculate  
14      investment amounts, the NPV started to get  
15      calculated.

16                Q.    Let's go to paragraph 11 that you said  
17      your division did work on. When it says there is a  
18      sufficient budget allocation that exists, what is  
19      that referring to?

20                A.    That this investment was within the  
21      budget for that year and that this investment was  
22      approved by the officers and by the board of  
23      directors.

24                Q.    How did you determine whether a project  
25      or how did you determine, if you remember, whether

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2       this project was within the budget that existed at  
3       the time?

4               A.     Because the budget is calculated for  
5       each project and on a yearly basis.

6               Q.     And this project that we are looking at  
7       for the power house, that was an RNEST project,  
8       correct?

9               A.     It is part of the RNEST project.

10              Q.     I am handing you what has been marked as  
11       da Fonseca Exhibit 24, PBRCG underscore 01226966  
12       through 77.

13                   (da Fonseca Exhibit 24, Document bearing  
14       Bates numbers PBRCG underscore 01226966  
15       through 77, was so marked for  
16       identification, as of this date.)

17                   MS. GILMORE: Plaintiffs object to the  
18       translation and also the fact that this  
19       document doesn't have the exhibits.  
20       Incomplete document.

21              Q.     I just want to ask a clarifying  
22       question. You testified earlier that the budget is  
23       calculated for each project and on a yearly basis.  
24       When you use the word "project" there, are you  
25       referring to the entire refinery and/or individual

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2 parts of the refinery like the power house that we  
3 are talking about here?

4 A. The whole refinery.

5 Q. As part of that budget though, are there  
6 individual budget components?

7 A. The entire refinery, and the detailing  
8 are under the responsibility of the divisions.

9 Q. So do you recognize what the document is  
10 that I have marked as Exhibit 24?

11 A. Again, without a signature.

12 MS. GILMORE: Also let the record  
13 reflect that the document has a redacted  
14 portion.

15 Q. All right, that's fine, but do you  
16 recognize what the document is?

17 A. I recognize this type of document for  
18 projects of this nature.

19 Q. What is it?

20 A. It is a contracting authorization. You  
21 need to ask authorization to the officers for the  
22 bidding and you need to require the officers to  
23 contract bringing the project's results.

24 MR. MARTINI: Bidding's results.

25 Q. Is this document specifically seeking

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2 authorization to sign a contract with Alusa for the  
3 power house project?

4 A. Yes.

5 Q. And is this a document that you remember  
6 reviewing before it went to the executive board?

7 MS. GILMORE: Objection to form.

8 A. I review the parts under my  
9 responsibility. I check that there was a budget.  
10 As you can see on item 13, actually item 12, I am  
11 responsible for the area of my operations and my  
12 area of responsibility is to inform if there is a  
13 budget or not. I do not inquire anything about the  
14 engineering division's processes because I am under  
15 no conditions to do that. I have no information,  
16 and this is not a process that is under my  
17 division's responsibility.

18 Q. Let's look at paragraph 5. It is  
19 underneath the heading that says "Explanation." Do  
20 you see that?

21 A. This information here is from the  
22 engineering department.

23 Q. Right, and do you see that this sets  
24 out, first it says that it recommends consideration  
25 of the proposal from Alusa. It says it is in the

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2    interest of Petrobras, and it fits within the range  
3    of the Petrobras estimate which varied from a  
4    minimum of 919,973,030.5 reais to a maximum of  
5    1,285,871,394.97 reais, and it gives an average  
6    which I won't read because it is a long number, but  
7    it says that the Alusa proposal bid which the  
8    recommendation is to accept is 9.82 percent below  
9    the average estimated amount for providing the  
10   services. Do you see that?

11               A.    Yes, I did. I would like to answer you  
12   with the presentation that talks about, oh, it is  
13   right here. You asked me two questions about price  
14   escalation. I am going to answer giving the reason  
15   why this estimate is within what is contained on --  
16   do you have the presentation?

17               Q.    I don't know what document you are  
18   referring to. My only question is do you see that  
19   and you said yes, I did. I think I am going to ask  
20   another question.

21               A.    We are going to have time for that.  
22   This price escalation that goes from 2.3 to 13, the  
23   greatest part of this increment is exactly because  
24   the system that calculated the price basis was not  
25   updated. The system is called Commercially Sensitive and only one



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2   engineering management had access to that  
3   information.

4                   **Commercially Sensitive**

9                   MS. GILMORE: I just want the record to  
10                  reflect that the witness was referring for  
11                  da Fonseca Exhibit 11 at slide 5.

12                 Q. Let's go back to the document marked  
13                  Exhibit 24 and paragraph 5. I just want to clarify  
14                  one thing that you have said previously in your  
15                  testimony. You had said that and it may have been  
16                  just unclear, but you had highlighted the fact that  
17                  your understanding that the Alusa bid was  
18                  272 percent over a certain internal price.

19                         Am I right that it was 272 percent over  
20                  the initial budget amount that was the basis for  
21                  the submission of the document we have marked as  
22                  Exhibit 23?

23                 A. Yes.

24                 Q. So it was not 272 percent over the  
25                  company's internal estimate for the project?

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2 A. No. I don't remember if it was the  
3 first bid, if there was a second bid. I would have  
4 to read it better in order to see if there is any  
5 mentioning.

6 Q. But my question was I think you said no,  
7 the 272 percent was not over the company's internal  
8 estimate for the power house.

9 A. I remember this overprice. I remember  
10 calling the officer requesting that this project  
11 would not be approved. On my last testimony I  
12 showed documents here where my conversation with  
13 this officer was made clear, and I stand by it.

14 Q. And --

15 A. It is not my area of specialty. It has  
16 been eight or nine years and I don't remember this  
17 overprice was there.

18 MR. MARTINI: Just clarify the  
19 translation.

20 A. There was a bid after that.

21 MR. MARTINI: Does not remember if there  
22 was no -- that there was no overprice,  
23 right? Clarifying the translation how it  
24 was said.

25 MS. LEVI: No, that is not what she

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2 said.

3 MR. MARTINI: What did she say, if you  
4 can clarify what you said?

5 MR. COOPER: The translation doesn't  
6 make any sense right now.

7 MS. GILMORE: Can you restate the  
8 answer.

9 A. I do not remember that there was no  
10 overpricing.

11 MR. MARTINI: She does not remember that  
12 there was no overpricing.

13 That is what you stated right now,  
14 right?

15 THE WITNESS: Correct.

16 MR. MARTINI: We just wanted to correct  
17 the record.

18 Q. You can put that aside. I want to ask  
19 you other questions about some testimony. There is  
20 no question pending right now.

21 A. May I read the document before you ask  
22 the next question?

23 Q. Well, the next question is not going to  
24 be about the document, and if you want to review it  
25 on break, that's fine, but I have no more questions

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2 about the document that you have in front of you.

3 A. Okay. Go on.

4 Q. The last time Ms. Gilmore asked you some  
5 questions about individuals that you said, you  
6 testified that you believed had been harassed by  
7 the company. Do you recall that testimony?

8 A. Yes.

9 Q. You mentioned an attorney in connection  
10 with the Pasadena refinery purchased. Do you  
11 remember that?

12 A. Yes.

13 Q. At any time have you spoken personally  
14 with this attorney?

15 A. No.

16 Q. How do you know the information that you  
17 gave in your testimony on February 16 about that  
18 attorney?

19 A. Besides in every hall of Petrobras, all  
20 employees and providers knowing it, it was broadly  
21 forecast by the media and individuals from the  
22 legal department close to his wife who still worked  
23 at the legal department spoke about that.

24 Q. Broadcast is the word?

25 A. Broadcast.

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2 Q. Broadcast, do you mean on television?

3 What are you referring to?

4 A. Newspapers.

5 Q. Previously you also mentioned an  
6 employee from the engineering division, and I  
7 believe you said that he was on a television  
8 program with you, is that right? What was his  
9 name?

10 A. I don't remember.

11 Q. Have you ever spoken with him apart from  
12 the television program?

13 A. No.

14 Q. You also described some telephone calls  
15 that you received that you believed were harassing  
16 calls. In any of those calls did the caller ever  
17 mention Petrobras by name?

18 A. They mentioned that I was touching upon  
19 large individuals. Since in my work I did not have  
20 relationships with external individuals, either  
21 suppliers or politicians, and since definitely  
22 these individuals were not from my family, I came  
23 to the conclusion that these individuals were  
24 individuals from Petrobras and when Duque demoted  
25 me and he wished me a long life in Singapore

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2       celebrating with a good whiskey, I believe that I  
3       was really correct.

4               Q.     In these calls did any caller ever use  
5       the word "Petrobras"?

6               A.     I already answered that question.

7               Q.     You didn't. Did they use the word  
8       "Petrobras" or not?

9               MS. GILMORE: Objection to form.

10              A.     The attitude towards me within Petrobras  
11       also reinforced the same. I heard a word from the  
12       officer Cosenza saying you are not wanted in this  
13       management, you cannot work here at headquarters.  
14       Go to Singapore. It is the best place we can offer  
15       you. And believe me, I thank goodness I was not  
16       sent to China, because my daughters are very  
17       allergic to pollution. They would not fare well  
18       over there.

19              In other words, a person who was not  
20       treated well within Petrobras was requested to  
21       change documents to be submitted to officers, a  
22       person who proposed many changes to models so that  
23       we could keep up with project constructions, and  
24       the fact that I was removed when the refinery was  
25       going into the full operations phase and many

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2 different conversations with the officer where he  
3 would clearly demonstrate that I was not on the  
4 right side and the fact that I mentioned officers,  
5 this project was almost 3 billion negative. Is  
6 that exactly what we are going to approve?

7 I was removed from my position and sent  
8 to Singapore, and I still thank goodness I can be  
9 here talking about this.

10 Q. So I understand that is the conclusion  
11 you want to draw about these calls, but I need to  
12 go back because are you unable to answer my  
13 question as to whether you remember anyone in the  
14 calls that you received in 2008 and 2009 that you  
15 consider harassing, whether any one of those calls  
16 used the word "Petrobras"?

17 MS. GILMORE: Objection to form.

18 A. People are not such idiots. There were  
19 many people involved in this process. So that  
20 people could be suspicious if it was Petrobras or  
21 not. They would be sure. That is how these things  
22 are done.

23 Q. So is your answer you are not able to  
24 answer my question?

25 MS. GILMORE: Objection to form. Asked

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2 and answered.

3 A. I answered your question in five  
4 different ways at least.

5 Q. Do you understand that someone either  
6 uses a word or does not, and my question is was the  
7 word used?

8 MS. GILMORE: Objection to form.

9 A. To use a word I understand, you can use  
10 a word by saying the word or inferring that that is  
11 the word.

12 Q. My question is did anyone in the calls  
13 that you received in 2008 and 2009 that you  
14 consider harassing say the word "Petrobras"?

15 MS. GILMORE: Objection to form.

16 A. I have already answered your question.

17 Q. The record will make clear you have not,  
18 but evidently you cannot say yes because you have  
19 not said yes.

20 MS. GILMORE: Objection to the  
21 commentary.

22 MR. COOPER: Let's take a break.

23 THE VIDEOGRAPHER: This concludes tape  
24 number 3. The time is 4:59 p.m. We are  
25 going off the record.



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2 (Recess taken)

3 THE VIDEOGRAPHER: This begins tape  
4 number 5. The time is 5:22 p.m. We are  
5 back on the record.

6 BY MR. COOPER:

7 Q. Ms. da Fonseca, I am going to mark  
8 another document as da Fonseca Exhibit 25. I'm not  
9 going to ask you questions about it, and we do not  
10 have a translation. I want to just ask you one or  
11 two questions about it, but we have the Portuguese.  
12 Just take a look at it.

13 (da Fonseca Exhibit 25, Document, was so  
14 marked for identification, as of this date.)

15 Q. You provided some testimony during the  
16 previous period before the break about an internal  
17 DIP that you prepared forwarding the CIAs related  
18 to Geovane de Moraes and some other documents to a  
19 number of people internal to Petrobras, and my  
20 question is I just want to know is this the DIP  
21 that you are referring to or that you referred to  
22 in the testimony you gave?

23 MS. GILMORE: I just want to make an  
24 objection here. What is the AB-CR? Is that  
25 something that you produced to us?

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2 MS. CURRIE: Yes, we did produce it, but  
3 for whatever reason, the version that is  
4 printed doesn't have the Bates stamp on it.

5 MR. COOPER: We can follow up with the  
6 Bates number.

7 MR. MARTINI: That just corresponds to  
8 the AB-CR up here.

9 MS. GILMORE: Also it is not signed, and  
10 it looks like it is supposed to have  
11 exhibits that are not here.

12 THE WITNESS: Yes.

13 Q. Okay. Then you can set that aside.  
14 That was the only question I had. I am going to  
15 hand you what has been marked as da Fonseca Exhibit  
16 26.

17 (Da Fonseca Exhibit 26, Testimony of  
18 September 4, 2014 in connection with  
19 internal Petrobras investigation regarding  
20 RNEST, was so marked for identification, as  
21 of this date.)

22 Q. I ask you to take a look at it and then  
23 tell me if you recognize the document.

24 A. Yes.

25 Q. What is the document?

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2 A. It is my declaration term at the CIA  
3 that dealt with RNEST contracting.

4 Q. Does it reflect the testimony that you  
5 gave on September 4, 2014 in connection with the  
6 internal investigation that Petrobras undertook  
7 regarding RNEST?

8 A. Yes.

9 MS. GILMORE: I just want an objection  
10 to this document. It refers to a number of  
11 attachments that are not here.

12 Q. Did you have a chance to review this  
13 declaration prior to when you signed it?

14 A. Yes, I did.

15 Q. Did you provide any comments to the  
16 draft that you reviewed?

17 A. Yes, I did.

18 Q. And were you satisfied that the copy  
19 that you signed was truthful and accurate?

20 MS. GILMORE: Objection to form.

21 A. This last one?

22 Q. The final one that you signed.

23 A. Yes.

24 Q. I just want to turn your attention to  
25 page 3 of 6, and in the fourth paragraph down

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2 there is a paragraph that is about the form of  
3 contracting that was used, and specifically about  
4 the international standard that had been proposed,  
5 and in the third sentence it is written "The  
6 deponent commented that a decision was made by the  
7 services area not to adopt the international  
8 standard because these modifications were probably  
9 impacting the price. There was a meeting between  
10 the project management teams at which this was  
11 communicated by engineering." Was that a true  
12 statement?

13 A. Correct.

14 MR. COOPER: I don't think we have any  
15 further questions right now. I don't know  
16 if you want to take a quick break.

17 MS. GILMORE: I will just start now so  
18 that we can finish soon.

19 MR. COOPER: I do reserve my right to  
20 just ask any follow-up questions based upon  
21 the questions that you ask.

22 MS. GILMORE: Okay.

23 EXAMINATION BY MS. GILMORE:

24 Q. Ms. da Fonseca, I just wanted to clarify  
25 a few parts of your testimony. One is you

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2 previously testified today that you communicated  
3 with PWC at the end of 2013 about an external  
4 outside audit that was done in Singapore. Is that  
5 correct?

6 A. The finance officer is the one who made  
7 the communication who was responsible for this  
8 area, but I was privy to what was going on.

9 Q. Do you recall the name of the finance  
10 officer?

11 A. Fernando Kamache.

12 Q. Is he still employed at Petrobras if you  
13 know?

14 A. Today, he is Transpetro's finance  
15 officer.

16 Q. Transpetro is a subsidiary of Petrobras?

17 A. Yes, it is.

18 Q. Can you tell me in connection with that  
19 testimony about PWC, you said that there were a few  
20 issues in the commercial division. Can you  
21 describe for me those issues.

22 A. These are the ones that I already  
23 described on my last deposition. We started to  
24 find a lot of problems in the business area such as  
25 the banking division. Bunker division.

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2 THE INTERPRETER: The interpreter will  
3 stand corrected.

4 A. Which is fuel used in ships and in other  
5 areas such as a loss of oil. After each quarter,  
6 documentation was exchanged and we did not want to  
7 fail to inform because that would affect the  
8 balance sheet.

9 Q. Is your testimony that PWC received the  
10 documentation that showed problems, the problems  
11 you just testified to?

12 A. I believe so, but at a certain point I  
13 stopped following up with these procedures.

14 Q. What is the reason for your belief that  
15 PWC received the documentation showing those  
16 problems?

17 A. Because Fernando mentioned it to me.  
18 Oh, now I remember. What was said at the time is  
19 that this was not material compared to the whole  
20 Petrobras balance sheet.

21 Q. Who said that to you?

22 A. Someone from Petrobras. I don't know  
23 who the individual in charge is from Petrobras, but  
24 that person discussed about this with PWC. PWC  
25 knew.

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2 Q. What was the timeline of that?

3 A. 2013, because in 2014 I was no longer  
4 there.

5 Q. Do you recall when in 2013 these issues  
6 were discussed?

7 A. It was at the end of the year. It was  
8 the end of the closing of the fiscal year. I did  
9 not go back to that documentation, so I could be  
10 making a mistake, but I remember specifically about  
11 the materiality issue.

12 Q. These issues involving the commercial  
13 division, did they include evidence of overpricing?

14 MR. COOPER: Objection.

15 A. Completely.

16 Q. Can you describe that for me, please.

17 A. I need a certain amount of bunker to  
18 fill up Petrobras' ships. We had traders in  
19 Singapore and traders in Brazil who were able to  
20 buy these fuels directly in the market for  
21 Petrobras.

22 What they did is they put up a company  
23 named Seaview. It would buy at market value and  
24 would sell to Petrobras at an overprice. That was  
25 confirmed during the whole period that it was

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2     analyzed except for one deal whereas one trader was  
3     not there. Their Yahoo, their e-mails, were clear.  
4     They would discuss who would get the price or  
5     premium resulting from overpricing.

6                   Q.     And PWC received this documentation?

7                   MS. MITCHELL:   Objection.

8                   A.     I'm not sure if at that time. I really  
9     do not know which documentation was provided.

10                  Q.     Was there a report done on this type of  
11     evidence that summarizes the results?

12                  A.     Definitely there is documentation but I  
13     would have to search. However, you are going to  
14     have to go directly to the officer because I no  
15     longer have access to my e-mail messages.

16                  Q.     If I wanted to get that documentation,  
17     what should I ask for to receive it? What type of  
18     document should I ask for?

19                  A.     e-mails and the letter. There is a  
20     letter that is sent at the completion of the  
21     auditing operations that attest that everything is  
22     okay.

23                  MS. LEVI:   A comfort letter.

24                  MS. MITCHELL:   Objection to form. I  
25     heard someone say comfort letter. I'm not



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2 sure if that is the questioner. If so, that  
3 is an objection to form.

4 MS. LEVI: A clarification on  
5 translation.

6 THE INTERPRETER: Comfort letter we will  
7 accept.

8 Q. Who provided the letter that attested  
9 that everything is okay?

10 MR. COOPER: Objection.

11 A. The finance officer in that case for  
12 Petrobras Singapore.

13 Q. What was his name again?

14 A. Fernando Kamache.

15 THE INTERPRETER: The interpreter gave a  
16 wrong spelling for that name.

17 Q. The few issues that you testified to in  
18 the commercial division, did they also include  
19 evidence of a cartel?

20 A. It is another type of cartel.

21 Q. Can you describe that for me, please.

22 A. It was an agreement. In that case of an  
23 agreement, it was an agreement of the companies  
24 were acting in that field because they had to buy  
25 them at market prices and sell for higher price.

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2       But it is the same type of operation.

3               Q.     This would be, this evidence of cartel  
4       would be documented somewhere?

5               MR. COOPER:   Objection to form.

6               A.     Yes.   There were different documents  
7       that were produced, presentations given to the  
8       executive manager, the internal report, Singapore  
9       employee testimony, a very important document, this  
10      employee used to work at the bunker division.   This  
11      process has been very well documented.

12              Q.     Who is the employee that you said used  
13      to work in the bunker division?

14              A.     He is a natural of Singapore who is no  
15      longer working at PSPL.   San, Son.

16              Q.     You testified that this process has been  
17      very well documented.   Who received the evidence?

18              MR. COOPER:   Objection.

19              A.     Executive manager, officer, in that case  
20      Graca as CEO, the legal department and everyone  
21      else who needed to be privy as to what was going  
22      on.

23              Q.     Can you clarify for me again the time  
24      when all the executives, the legal department and  
25      other departments received this evidence?

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2 A. This process began in October 2012. It  
3 might have gone up until the first half of 2013  
4 because first we formed our commission and then a  
5 process commission and then an auditing commission  
6 and then another commission to verify the penalties  
7 incurred, but I'm not sure in that case, in the  
8 case of communication if the companies were sued.

9 MS. LEVI: "As in the case of  
10 communication." Objection to the  
11 translation. "I'm not sure in that case as  
12 in the case of communication."

13 A. I'm not sure, but I don't think so,  
14 because we were directed to continue to negotiate  
15 with Seaview by writing.

16 Q. Who directed you to continue to  
17 negotiate with that company Seaview by writing?

18 A. The executive manager at that time. It  
19 was Raimundo Brandao.

20 Q. Is Raimundo still at Petrobras?

21 A. Retired.

22 Q. Do you know if PWC received the  
23 documentation that showed the existence of the  
24 cartel as well?

25 MR. COOPER: Objection.

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2 MS. SPAZIANO: Can I confirm that one  
3 objection by one counsel is an objection by  
4 all counsel?

5 MS. GILMORE: That's fine.

6 A. I don't know which documentation was  
7 shown. However PWC Singapore would do the auditing  
8 and then Petrobras' auditing department conducted  
9 the auditing. I'm not sure if that was recorded in  
10 any way.

11 Q. You testified to the existence of some  
12 e-mails between Petrobras and PWC on which you were  
13 copied. Is that correct?

14 A. No.

15 MS. MITCHELL: Objection to form.

16 A. I'm not sure if I was copied or if I  
17 read a printed version of it. I have to check.

18 Q. Who from Petrobras again was involved in  
19 this communications with PWC?

20 A. Fernando Kamache.

21 MS. MITCHELL: Objection to form.

22 Q. Anyone else you know?

23 A. There were employees who were from  
24 Singapore because the PSPL manager was from  
25 Singapore and the controller was also from

1                   da Fonseca - Confidential

2     Singapore.

3               Q.     You also testified earlier that you were  
4     suspended from Petrobras after you brought to the  
5     attention of executives and others certain illicit  
6     conduct, and you testified that the person who  
7     suspended you was from the HR department and this  
8     person was the one that you -- for whom you  
9     recommended suspension previously in connection  
10    with misconduct. Can you tell me the name of this  
11    person?

12               MR. COOPER: Objection to form.

13               A.     Today he is an executive manager in the  
14    engineering division at corporate.

15               Q.     What is his name?

16               A.     I don't recall that person's name, but  
17    it is not difficult to find, because it is in the  
18    flow chart.

19               Q.     Can you give me the person's current  
20    position, the exact position, if you know?

21               A.     He is executive manager of the  
22    engineering officers department, which is a  
23    corporate division. There is an acronym, but I  
24    would have to go into a website in order to see it.

25               Q.     You testified today and previously that

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2 you have met other persons who were harassed at  
3 Petrobras for trying to bring, trying to expose  
4 illicit conduct and you testified to a TV program.

5 Can you tell me more about that TV program. If I  
6 wanted to access it, where would I go?

7 MR. COOPER: Objection to form.

8 A. This program is a program that is found  
9 online. The name is Conexao Reporter. When was it  
10 broadcast? It was recorded in November, and I  
11 think it was published in December.

12 Q. Of which year?

13 A. The reporter's name is Roberto Cabrini.

14 Q. Which year you said? November 2015?

15 A. '15.

16 Q. I just want to clarify with respect to  
17 your testimony about Mr. de Castro Sa. When did  
18 you learn from Mr. de Castro Sa the existence of  
19 the cartel?

20 MR. COOPER: Objection to form.

21 A. Exactly with the words "cartel" was  
22 between 2008 and 2009. The end of 2008 going into  
23 2009.

24 Q. And did Mr. Sa show you documents  
25 reflecting the existence of the cartel in 2008 and

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2 2009?

3 A. Yes.

4 MR. COOPER: Objection.

5 MS. GILMORE: Let's take a quick break.

6 THE VIDEOGRAPHER: The time is 5:49 p.m.

7 We are off the record.

8 (Recess taken)

9 THE VIDEOGRAPHER: This is the  
10 continuation of tape number 5. The time is  
11 6:02 p.m. We are back on the record.

12 BY MS. GILMORE:

13 Q. I want to show you what has been marked  
14 as Exhibit 27. Please take time to look at it.

15 (da Fonseca Exhibit 27, Labor complaint  
16 filed against Petrobras on December 18,  
17 2014, was so marked for identification, as  
18 of this date.)

19 Q. Do you recognize this as a copy of the  
20 labor complaint that you filed against Petrobras on  
21 December 18, 2014?

22 A. Yes.

23 Q. And it has Ata de Audiencia. Do you see  
24 that towards the end?

25 A. Yes.

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2 Q. And --

3 MR. COOPER: Is there a translation of  
4 this page?

5 MS. GILMORE: Yes. At the end of the  
6 first big document. It is an attachment.

7 Q. This Ata de Audiencia shows several  
8 depositions were given in connection with your  
9 labor lawsuit. Is that correct?

10 A. Yes.

11 Q. Did you testify in connection with your  
12 labor complaint?

13 A. Yes.

14 Q. Does this reflect the testimony you gave  
15 in connection with the labor complaint?

16 A. Yes.

17 Q. Then do you see after your testimony, it  
18 says that Mr. Fernando de Castro Sa testified on  
19 your behalf?

20 A. Yes.

21 Q. Mr. de Castro Sa was accompanied by  
22 Petrobras lawyers during that time?

23 MR. COOPER: Objection to form.

24 A. Yes.

25 Q. If you look at the last page, which is



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2       federal judiciary labor court certification, do you  
3       see that?

4               A.     Yes.

5               Q.     Does that document reflect that at the  
6       time Mr. Castro Sa gave his testimony, lawyers for  
7       Petrobras who represented him were present?

8               MR. COOPER:   Objection to form.

9               A.     Yes.

10              Q.     Okay.   You can put that away.

11                   (da Fonseca Exhibit 28, Document with  
12       first page bearing Bates number  
13       01832059-00004, was so marked for  
14       identification, as of this date.)

15              Q.     Showing you what has been marked as  
16       Exhibit 28, please take a minute to look at it.

17              A.     Yes.

18              Q.     Can you take a look at the first page  
19       Bates number 01832059-00004 and tell me what this  
20       document is.

21                   MR. COOPER:   We will make objections to  
22       the translation of these documents.   The  
23       same objection we make.

24              Q.     The first, the e-mail from July 23, 2009  
25       starts "Director."

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2 A. It is an e-mail from Pedro Barusco  
3 copying the former officer -- no. To the officer  
4 Renato Duque copying Sergio Arantes who was  
5 responsible to forecast investment costs which was  
6 responsible for the system that I referred to  
7 previously. Barusco had to answer to the country's  
8 accounting court, and he is hesitant to send these  
9 information through electronic means. He actually  
10 consulted with the legal department.

11 Q. What does Mr. Barusco tell Mr. Duque in  
12 this e-mail?

13 MR. COOPER: Objection to form. It is  
14 clear this witness is not on this e-mail and  
15 doesn't appear to get any of it.

16 A. He says it is dangerous to provide  
17 information electronically.

18 Q. To whom?

19 MR. COOPER: Objection.

20 A. To agencies. Here it mentions them in a  
21 more general way, but here he mentioned.

22 Information to the external control agencies.

23 Q. Do you know, were you aware that the TCU  
24 was requesting magnetic copies of certain documents  
25 in connection with the Abreu e Lima, implement is

1                   da Fonseca - Confidential  
2   of the Abreu e Lima refinery in 2009?

3                   MR. COOPER:  Objection.

4                   A.  No.  All individuals copied on this DIP  
5   besides the CEO's cabinet was the engineering  
6   department.  I was not copied and the divisions  
7   responsible for performing and following up with  
8   projects.  I don't remember actually.

9                   Q.  Okay.  You can put that away.

10                  MS. LEVI:  "I was not copied and the  
11   divisions responsible for performing the  
12   projects were the ones copied."

13                  Q.  I hand you what has been marked as  
14   Exhibit 29.  Please take time to look at this  
15   document.

16                  (da Fonseca Exhibit 29, e-mail, was so  
17   marked for identification, as of this date.)

18                  MR. COOPER:  Is there a translation?

19                  MS. GILMORE:  We don't have a  
20   translation of this.

21                  MR. COOPER:  The only document we didn't  
22   have a translation for, we just asked her to  
23   identify it, so if you are going to ask her  
24   about content, I am going to object.

25                  Hold on.  We need to look at this.  We

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2                   might conclude this document is privileged.

3                   We don't have an English translation.

4                   Can we go off the record.

5                   MS. GILMORE: Sure.

6                   THE VIDEOGRAPHER: The time is 6:14 p.m.

7                   We are going off the record.

8                   (Recess taken)

9                   THE VIDEOGRAPHER: This is the  
10                  continuation of tape number 5. The time is  
11                  6:41 p.m. We are back on the record.

12                  MR. COOPER: We have analyzed the  
13                  document and the attachment that were marked  
14                  as Exhibit 29 and concluded that they are  
15                  privileged, so we are going to claw them  
16                  back under the terms of the protective  
17                  order. The separate attachment though, to  
18                  the extent you want to mark it as a separate  
19                  exhibit, we will object, but we will allow  
20                  you to ask the witness questions about it on  
21                  the condition that there is agreement that  
22                  we are not waiving any privilege in allowing  
23                  you to do so.

24                  MS. GILMORE: First of all, plaintiffs  
25                  object to the designation of the police

1                   da Fonseca - Confidential  
2                   investigation report as being privileged,  
3                   and in fact they would have been required to  
4                   produce it in response to plaintiffs'  
5                   document request, but why don't we introduce  
6                   it as two separate documents then.

7                   So let's have Exhibit 29 as the e-mail,  
8                   and then let's do the police report as  
9                   Exhibit 30.

10                  (da Fonseca Exhibit 30, Police report  
11                  dated February 3, 2011, was so marked for  
12                  identification, as of this date.)

13 BY MS. GILMORE:

14                  Q.    I will give you the English translation  
15                  for the police report. Ms. da Fonseca, since  
16                  counsel for Petrobras is designating the e-mail  
17                  confidential, I'm not going to ask you at this  
18                  point questions about it, although we reserve our  
19                  rights in the future to ask questions about that  
20                  document.

21                  So let's focus your attention right now  
22                  on da Fonseca Exhibit 30. Have you seen this  
23                  document before?

24                  A.    No.

25                  Q.    What is it?

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2 MR. COOPER: Objection to form.

3 MS. SPAZIANO: Is there a translation  
4 for others at the table?

5 MR. KEHOE: Yes.

6 A. It is a police investigation that deals  
7 with overpricing at the northeast refinery. It was  
8 initially reviewed by the country's accounting  
9 court, and it was submitted to Pernambuco so that  
10 the investigation could proceed.

11 Q. What is the date of this police report?

12 A. 2011. February 3, 2011.

13 Q. If I direct you to the second page where  
14 it says ordinance portaria, can you tell me what it  
15 says under resolve?

16 MR. COOPER: Objection to form. Are you  
17 asking her to read what it says or can she  
18 interpret it?

19 MS. GILMORE: If she understands the  
20 question, she can answer it.

21 MR. COOPER: I object.

22 A. The federal police, the chief of federal  
23 police of the finance police department is starting  
24 an investigation regarding overpricing issues at  
25 the refinery's construction operations. As far as

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2 I understand, Petrobras has a margin of acceptance  
3 of the overprice forecasted for the whole  
4 construction, and here he questions individual  
5 costs. It is not the first time that I see this.

6 Q. What do you mean by that?

7 MR. COOPER: Objection to form.

8 A. Because these questioning we end up  
9 going to the same points. We talked about the  
10 table and the screw today, and here at EarthWorks,  
11 which is another large refinery contract, the same  
12 type of questioning occurred. I cannot tell you  
13 for sure, however, that it went to the same police  
14 department. There were unit prices that went much  
15 above the forecast, and that is usually what  
16 happens here.

17 Q. The information, the ordinance, ordering  
18 to open a police investigation in order to point  
19 criminal accountability or signs of irregularity in  
20 connection with construction work at Abreu e Lima  
21 refinery, were those the types of irregularities  
22 that you had encountered and tried to bring to the  
23 attention of the executive board of Petrobras in  
24 2008 and 2009?

25 MR. COOPER: Objection to the form.

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2 Foundation.

3 A. In my first deposition I mentioned a  
4 report made about the EarthWorks, and it addresses  
5 the same issue.

6 Q. Can you clarify what issue, please.

7 MR. COOPER: Objection to form.

8 A. Unitary prices very much above what was  
9 forecast. When it comes to EarthWorks, there was  
10 an increase, but not very significant when it comes  
11 to the whole contract, but on a few unitary prices  
12 it went much above what was forecast.

13 Q. Are you aware that the police was  
14 seeking the testimony of Mr. Flavio Fernando Casa  
15 Nova Da Motta in connection with the irregularities  
16 shown at the Abreu e Lima refinery in 2011?

17 MR. COOPER: Objection to form.

18 A. No.

19 Q. Are you aware that the police were  
20 seeking the testimony of Ivo Tasso Bahia Baer in  
21 connection with criminal activity regarding the  
22 Abreu e Lima refinery?

23 MR. COOPER: Objection.

24 A. No.

25 Q. Okay. You can put that aside. I am



1                   da Fonseca - Confidential  
2     going to give you what has been previously marked  
3     as Exhibit 14. Please take a minute to look at the  
4     document. What is this document?

5                 A.     It is an internal commission report who  
6     investigated the northeast refinery contracts.

7                 Q.     And if you go to section 8.9 of that  
8     report, do you see the name of Omar Antonio  
9     Kristoschek Filho listed as a person responsible  
10    for a violation listed in item 6A?

11                A.     Yes.

12                Q.     If you go to the police report I  
13    produced to you, da Fonseca Exhibit 30 at page 4,  
14    item number 8, do you see the same name Omar  
15    Antonio Kristoschek Filho is the same person that  
16    police was criminally investigating in 2011?

17                   MR. COOPER: Objection to form.

18                A.     Yes.

19                Q.     Let's go back to the CIA section number  
20    8.10. Do you see the name Luis Carlos Queiroz de  
21    Oliveira as Petrobras indicated is responsible for  
22    certain violations in connection with the Abreu e  
23    Lima refinery?

24                   MR. COOPER: Objection to form.

25                A.     Yes.

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2 Q. If you go back to the police report, do  
3 you see Mr. Luis Carlos Queiroz de Oliveira as  
4 number 7 listed as a person who was criminally  
5 investigated by the police in 2011?

6 MR. COOPER: Objection.

7 A. Yes.

8 Q. And the last one, which is 8.11 in  
9 Petrobras' CIA, lists Ricardo Luiz Ferreira Pinto  
10 Tavora Maia as a person responsible for certain  
11 violations in connection with the Abreu e Lima  
12 refinery, correct?

13 A. Correct.

14 Q. If you look at the police report, do you  
15 see number 9, Mr. Ricardo Luiz Ferreira Pinto  
16 Tavora Maia being a person, the same person who was  
17 criminally investigated by the police in connection  
18 with illicit acts at the Abreu e Lima refinery in  
19 2011?

20 MR. COOPER: Objection to form.

21 A. Correct.

22 Q. You can put that away. In 2011 or any  
23 time afterwards were you aware that the police was  
24 criminally investigating certain employees at  
25 Petrobras in connection with illicit conduct at the

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2 Abreu e Lima refinery?

3 MR. COOPER: Objection to form.

4 A. No.

5 Q. Ms. da Fonseca, I show you what has been  
6 marked as Exhibit 31.

7 (da Fonseca Exhibit 31, Document, was so  
8 marked for identification, as of this date.)

9 MR. COOPER: Is there a translation?

10 MS. GILMORE: I don't believe we have  
11 one. Let's take a two-minute break.

12 THE VIDEOGRAPHER: The time is 6:56 p.m.  
13 We are off the record.

14 (Recess taken)

15 THE VIDEOGRAPHER: This is the  
16 continuation of tape number 5. The time is  
17 6:58 p.m. We are back on the record.

18 BY MS. GILMORE:

19 Q. Ms. da Fonseca, we can put that away.  
20 We don't have a translation at this time. I show  
21 you what has been previously marked as da Fonseca  
22 Exhibit 11, and I am showing you what is marked now  
23 as Exhibit 32.

24 (da Fonseca Exhibit 32, e-mail and  
25 presentation, was so marked for

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2 identification, as of this date.)

3 Q. You can keep that next to you. Let me  
4 know when you have had a chance to look at them.

5 A. Okay.

6 Q. Ms. da Fonseca, the e-mail that attaches  
7 this presentation states that this presentation  
8 were sent to Ms. Graca Foster, correct?

9 MR. COOPER: This is Exhibit 32?

10 MS. GILMORE: Yes.

11 MR. COOPER: Objection to form. This  
12 witness is not on this e-mail at all.

13 A. Do I have this?

14 Q. Ms. da Fonseca, have you seen these  
15 presentations before?

16 A. Part of the presentation, yes. I don't  
17 remember the whole thing. There were various  
18 different presentations in July. They were all  
19 about the same subject matter.

20 Q. If you look at page 11 of the  
21 presentation dated September 3, 2009. I'm sorry,  
22 page 12.

23 A. Page 12 is not like that.

24 Q. You are looking at the July. I am  
25 asking you to look at the presentation dated

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2 September 3, 2009. Page 12. Can you tell me and  
3 then if you look, compare that to the July 3  
4 presentation on page 17. July 2nd, sorry, which is  
5 Exhibit 11. Can you tell me what, if anything, is  
6 different between these two parts of the Abreu e  
7 Lima presentation?

8 MR. COOPER: Objection to form.

9 A. In this one scenarios are less worse in  
10 only two months. On the baseline scenario we lost  
11 \$700 million of a DPL of minus --

12 MR. MARTINI: NPV.

13 A. NPV. We go into minus \$3 billion  
14 negative.

15 Q. Do you know why you lost \$700 million in  
16 two months?

17 MR. COOPER: Objection to form.

18 A. I don't have this information now. It  
19 may have been bids that were open, and the prices  
20 were much above what was forecast. Just one  
21 moment. Here if you look at market heating, which  
22 would be based on a rate that we call IPA, there  
23 was an increase of 25 percent between the two  
24 presentations, and if you multiply that, you will  
25 find that scenario difference. In other words,

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2 1.3 billion, 1.1 billion from July through  
3 September.

4 Q. Which scenario are you describing right  
5 now?

6 A. I am looking at the price escalation,  
7 and when you see the market heating in July, it is  
8 not clear, but it is \$1.2 billion, and if you see  
9 the same indicator here in yellow, 2.3. You can  
10 obtain this information when you open the bidding  
11 packages.

12 Q. What do you mean by that?

13 A. That is why I believe, as I mentioned  
14 before, that there may have been an opening of  
15 bidding packages that were much above the prices  
16 forecasted. We are talking about an index or a  
17 rate of elevation of 25 percent for the  
18 construction cost of the refinery.

19 Q. And anything else that you see that is  
20 different between the presentation dated July 2 and  
21 the one dated September 3 in terms of the NPV  
22 value?

23 MR. COOPER: Objection to form.

24 A. The exchange rate also influenced it.  
25 However and we can observe exactly what we observed

1                   da Fonseca - Confidential

2     before, which was the system that calculated  
3     investments. What was calculated of being  
4     approximately 4 billion would then cost 8 instead  
5     if the system would have reflected market values.  
6     In other words, the project would be very negative  
7     on the second phase.

8                Q.     Can you look at scenario number 3 and  
9     tell me what the difference is in the presentations  
10    made on July 2nd and the one made on September 3rd.

11               MR. COOPER: I object.

12              Q.     I am comparing page 12 on September 3rd  
13    with page 17 on July 2nd.

14               MR. COOPER: We have given you a lot of  
15    leeway on these documents, but we did not  
16    ask any questions on slide 17 in Exhibit 11,  
17    and sorry, I will let her answer this  
18    question, but I think it is outside the  
19    scope of what we did. It should be recross  
20    or whatever we are going to call it based  
21    upon the questions we asked, and it is  
22    getting late. We can find out how close we  
23    are to seven hours.

24               She can answer, but I am going to put my  
25    objection down that this is I think sort of

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2 new, a new area that you asked her about  
3 this slide 17 on February 16, and we did  
4 not. I don't think you should get a chance  
5 to ask her in detail about it again today.

6 MS. GILMORE: I believe it is completely  
7 within the scope, so we will just leave it  
8 at that.

9 MR. COOPER: I disagree.

10 Q. Can you tell me if there is any  
11 difference between scenario 3 on page 12 of the  
12 September 3 presentation versus scenario 3 of page  
13 17 of the July 7 presentation?

14 A. The NPV in July is at minus 3, which is  
15 a conservative scenario, **Commercially Sensitive**

17 Q. I am asking about scenario 3.

18 MR. COOPER: Objection to form.

19 A. The aggressive one?

20 Q. Yes.

21 A. It gets worse. Minus 1 to minus 1.9,  
22 which means that if any premises that we expected  
23 in everything that was extremely entrepreneurial  
24 had happened and if we were not surprised by any  
25 market variations, in other words, if we had this



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2 **Commercially Sensitive**

7 Q. And do you see in scenario 3 that the  
8 number 344 which appears to be a positive NPV  
9 value?

10 A. This amount would be if we didn't have  
11 any partners because when we do this analysis, we  
12 look at the system as a whole. It is the issue of  
13 unitary prices and total prices, so this one would  
14 be an optimization with all the refineries, and  
15 this one even though it is a scenario planned out  
16 as positive, up to September/October of 2008, the  
17 thing was PDVSA was a pleasure working with you,  
18 but I am going to be alone.

19 MR. MARTINI: 2009.

20 A. No, until September or October of 2009.

21 THE WITNESS: Thank you.

22 A. What I said is that it was not  
23 considered not to have a partnership with PDVSA,  
24 quite to the contrary, and they knew that this  
25 would incur a better result for the company.

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2 Q. Was there any time in 2009 that Abreu e  
3 Lima had a positive NPV value?

4 MR. COOPER: Objection to form.

5 A. No.

6 Q. Was there any time in 2010 that Abreu e  
7 Lima had a positive NPV value?

8 MR. COOPER: Objection, no foundation at  
9 all.

10 A. I was no longer there, and I did not  
11 have access to information, but based on reports  
12 that we know today, that all of us know today, it  
13 never had a positive scenario.

14 Q. Which reports are you referring to?

15 MR. COOPER: Objection.

16 A. Internal Petrobras reports that leaked  
17 into the press. There are a few that are actually  
18 very detailed auditing reports. I don't know how  
19 they were.

20 Q. Can you describe those reports for me?

21 MR. COOPER: Objection.

22 A. Those were evaluations that the auditing  
23 department itself conducted that showed all this  
24 economic inefficiency of the refinery in 2012.

25 Q. Do you know how many reports there are

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2 from 2012?

3 MR. COOPER: Objection.

4 A. As far as I know, one. No, actually two  
5 or three.

6 Q. Have you seen those reports?

7 A. Yes.

8 Q. When?

9 A. 2015.

10 Q. In what context did you see them in  
11 2015?

12 A. During the Lava Jato suit.

13 Q. How did you come about to see them?

14 A. News on newspapers.

15 Q. Can you describe for me what this 2012  
16 reports from the audit department showing negative  
17 VPLs showed?

18 MR. COOPER: Objection to form.

19 Q. In detail.

20 A. Those were reports that reflected  
21 contracting and the results of this whole process.  
22 They are very detailed. The article is very  
23 detailed.

24 Q. And they showed the negative NPV with  
25 respect to Abreu e Lima?

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2 MR. COOPER: Objection.

3 A. Yes, it does. They do. I also had  
4 access to this report, at least one of them. In  
5 one of my testimony, I don't remember which, I went  
6 to the division responsible for following up the  
7 refinery's construction and I did not have part of  
8 the documents that we denominate DIP and that I had  
9 signed in those days and with this documentation  
10 one of these reports came with.

11 Q. What is this report you are referring  
12 to?

13 A. It is one of these reports from the  
14 auditing department that mentioned the price  
15 escalation for the northeast refinery, but I said  
16 in my last testimony that the division responsible  
17 to follow up with these projects, they issued  
18 monthly reports which were submitted to the  
19 executive manager and to the officer, so they could  
20 follow up the price escalation on a monthly basis.

21 Q. The second auditing report from the  
22 audit department that showed the price escalation  
23 in the Abreu e Lima refinery was dated when?

24 MR. COOPER: Objection to form. This is  
25 so far outside the scope of what we asked

1                   da Fonseca - Confidential

2                   her about. I object to this whole line of  
3                   questioning.

4                   A. I believe that it was in 2012.

5                   Q. Ms. da Fonseca, are you aware that  
6                   Petrobras eventually took almost a 12 billion  
7                   dollar impairment in connection with the Abreu e  
8                   Lima refinery?

9                   MR. COOPER: Objection.

10                  A. No.

11                  Q. Were you involved at all in any  
12                  impairment evaluations in connection with the Abreu  
13                  e Lima refinery?

14                  A. No.

15                  MS. GILMORE: Let's take a two-minute  
16                  break.

17                  THE VIDEOGRAPHER: The time is 7:26 p.m.  
18                  We are off the record.

19                  (Recess taken)

20                  THE VIDEOGRAPHER: This begins tape  
21                  number 6. The time is 7:33 p.m. We are  
22                  back on the record.

23                  BY MS. GILMORE:

24                  Q. Ms. da Fonseca, you testified earlier  
25                  today that there were certain communications

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2 between Petrobras and PWC around -- in 2013 with  
3 respect to an external outside audit. Can you tell  
4 me if you know which PWC entity was involved?

5 A. Initially it was PWC Singapore, but I  
6 know that the auditing department at Petrobras  
7 Brazil contacted PWC Singapore.

8 THE INTERPRETER: No. The interpreter  
9 corrects herself.

10 A. I know that PWC in Brazil was contacted  
11 by PWC Singapore.

12 Q. What year was this again?

13 A. 2013.

14 Q. Do you know the people at PWC Singapore  
15 that contacted the people at PWC Brazil and vice  
16 versa or vice versa?

17 MS. MITCHELL: Objection to form.

18 MR. COOPER: Objection.

19 A. I'm not familiar, because during these  
20 procedures I was not the one who dealt with them,  
21 but since the balance sheet required signature, and  
22 there were issues of diversion as I spoke about  
23 before, and this matter was addressed by both  
24 parties, Brazil and Singapore.

25 Q. In a summary way, what were the issues

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2   of diversion that you spoke about before?

3                   MS. MITCHELL: Objection.

4                   A.    Since a few diversions had been detected  
5   in the business department, and there is a question  
6   within this document if you know of anything that  
7   happened within the company that was not expected,  
8   and that created a bad feeling between the finance  
9   officer and PWC. If you want more details really,  
10  you would have to get them directly from them.  
11  There are a lot of individuals, a lot of  
12  information, and I have not concentrated on this  
13  issue for the last two years.

14                  Q.    Ms. da Fonseca, do you remember that you  
15  gave testimony on December 19, 2014 to the  
16  Brazilian federal prosecutors?

17                  A.    Yes.

18                  Q.    And do you believe that the testimony  
19  that you gave on December 19, 2014 to the Brazilian  
20  federal prosecutors was truthful and accurate?

21                  MR. COOPER: Objection.

22                  A.    Yes.

23                  Q.    And do you stand by that testimony  
24  today?

25                  A.    Completely.

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2 MS. GILMORE: No further questions from  
3 me.

4 MR. COOPER: Lauren, do you want to go?  
5 I have one question at the end, but go  
6 ahead.

7 MS. MITCHELL: Sure.

8 EXAMINATION BY MS. MITCHELL:

9 Q. Good evening, Ms. da Fonseca. I am  
10 Lauren Mitchell. I represent  
11 PricewaterhouseCoopers Auditores Independentes from  
12 the firm of King & Spalding. Earlier you were  
13 asked about PWC Brazil, and you mentioned a  
14 communication by a Petrobras officer who pointed  
15 out a few issues about the commercial division.

16 Ms. da Fonseca, you didn't communicate  
17 with anyone from PWC Brazil, did you?

18 A. No.

19 Q. And Ms. da Fonseca, you have no  
20 knowledge of what PWC Brazil did in the course of  
21 its audit, do you?

22 A. What I know is that it was said that  
23 this issue was not material compared to the entire  
24 Petrobras balance sheet, but I really do not have  
25 any additional information besides this



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2   information.

3                   Q.    When you say it was said that the issue  
4   was not material, no one from PWC Brazil spoke to  
5   you about the issue, correct?

6                   A.    Fernando Kamache was the direct contact  
7   about this subject matter at PWC Singapore.  So if  
8   anybody spoke anything, it was with him.

9                   MS. MITCHELL:  Thank you.  I have no  
10                   further questions.

11   BY MR. COOPER:

12                  Q.    I just have one more question, and then  
13   one thing for the record, Ms. da Fonseca.  You  
14   answered some questions about the document marked  
15   as Exhibit 30, which was a police investigation  
16   document.  Do you recall?  Was the testimony that  
17   you gave about the contents of this document based  
18   exclusively on your reading of the document here  
19   tonight for the first time?

20                  A.    No.  It was not only on this document,  
21   it was based on the whole process that I went  
22   through during the implementation of the refinery.

23                  Q.    I understand that you gave some other  
24   testimony.  I just wanted to clarify.  You saw this  
25   document marked as Exhibit 30 for the first time

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2    tonight, correct?

3           A.    Correct.

4           Q.    You had not seen it at any other time,  
5    right?

6           A.    Correct.

7                   MR. COOPER:  Lastly, I just wanted to  
8                   put our objection on the record that we do  
9                   have an objection to a translation, and I  
10                  think the parties disagreed, but testimony  
11                  earlier today includes a translation, and  
12                  the phrase is "opportunity of making," and  
13                  we object to that, and we reserve our rights  
14                  to challenge that translation later at the  
15                  appropriate time.

16                  MS. GILMORE:  It is noted on the record.

17                  MR. COOPER:  It is marked confidential  
18                  under the protective order, as was day one  
19                  of this deposition.  I guess just to make  
20                  clear we have clawed back what was marked as  
21                  Exhibit 29, and we will follow the  
22                  procedures we need to do.  I just want to  
23                  make sure it's not part of the exhibits to  
24                  the deposition itself.

25                  MS. GILMORE:  Yes.  It is not at this

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2                   point.

3                   THE VIDEOGRAPHER: This concludes tape  
4                   number 6. It also concludes today's  
5                   deposition. The time now is 7:42 p.m. We  
6                   are off the record.

7                   (Time noted: 7:42 p.m.)

8

9

10          Subscribed and sworn to

11          before me this       day of       , 2016.

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C E R T I F I C A T I O N

I, Joseph R. Danyo, a Shorthand  
Reporter and Notary Public, within and for the  
State of New York, do hereby certify:

That I reported the proceedings in the  
within entitled matter, and that the within  
transcript is a true record of such proceedings.

I further certify that I am not related,  
by blood or marriage, to any of the parties in this  
matter and that I am in no way interested in the  
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 10th day of March, 2016.

JOSEPH R. DANYO

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2

## I N D E X

3

Witness

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4

VENINA VELOSA da FONSECA

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7

## E X H I B I T S

8

da Fonseca

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Exhibit 20 Document bearing Bates numbers  
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through 125

237

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11

Exhibit 21 Second CIA report

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Exhibit 22 Transcript

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Exhibit 23 Document bearing Bates numbers  
PBRCG 01227093 through 098

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Exhibit 24 Document bearing Bates numbers  
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through 77

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Exhibit 25 Document

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Exhibit 26 Testimony of September 4, 2014  
in connection with internal  
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regarding RNEST

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Exhibit 27 Labor complaint filed against  
Petrobras on December 18, 2014

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Exhibit 28 Document with first page  
bearing Bates number  
01832059-00004

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Exhibit 29 e-mail

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Exhibit 30 Police report dated February 3,  
2011

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Exhibit 31 Document

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Exhibit 32 e-mail and presentation

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2 I wish to make the following changes for

3 The following reasons:

4 PAGE LINE

5 CHANGE:

6 REASON:

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13 CHANGE:

14 REASON:

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19 CHANGE:

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22 REASON:

23 CHANGE:

24 REASON:

25 Hudson Reporting & Video, Inc. 1-800-310-1769

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